Theodore Parker.

The Kidnapping of Anthony Burns

1854.

Commonwealth.

Boston, Friday, May 26, 1854.

MORNING EDITION.

A MAN KIDNAPPED!

A PUBLIC MEETING,

—AT—

FANEUIL HALL,

—WILL BE HELD—

This Evening, Friday, May 26th,

At 7 o'clock,

TO SECURE JUSTICE FOR A MAN CLAIMED AS A FUGITIVE

—BY A—

VIRGINIA KIDNAPPER,

—AND—

IMPRISONED IN BOSTON COURT HOUSE!

—IN DEFIANCE OF THE—

LAWS OF MASSACHUSETTS!

☞Shall he be plunged into the Hell of Virginia Slavery by a Massachusetts Judge of Probate?

Boston, May 26, 1854. 1t my26

Another Man Seized in Boston

—BY THE—

MAN HUNTERS!!

THE DEVIL-BILL RENEWING ITS VIGOR

—AND—

GETTING UP A JUBILEE AMONG US,

Over the passage of

THE NEBRASKA BILL!!!

Another colored man was seized in this city Wednesday night, by virtue of that devil's license for kidnapping, the Fugitive Slave bill, and was at the Court House, before the Fugitive Slave bill Commissioner, Thursday morning. The hunt was conducted so stealthily that few, if any, but those directly concerned in it, knew anything of the matter, until the man was seized and taken before the Commissioner. The news presently began to circulate about the city, and people were just beginning to gather at the Court House, when the examination was adjourned to Saturday. The proceedings before the Commissioner furnished the following particulars:—

The colored man was taken Wednesday night, in Court Square, between 6 and 7 o'clock, and kept in durance all night, in the Court House. Yesterday morning, about nine o'clock, he was brought before Commissioner Edward G. Loring, for examination. E. G. Parker, Esq., appeared in behalf of the man-hunters, and used documents purporting to be from the Circuit Court of the county of Alexandria, in Virginia, which set forth that Charles F. Suttle, of Alexandria, in that State, is the owner of a certain colored man, named Anthony Burns. The documents describe this Burns as a man about six feet high, twenty-four years old, and refer particularly to "scars" on his cheek and hand. It was alleged in substance that the man under arrest is this Burns, that he ran away from his owner some time in March last, and that the hunters mean to take this man to Virginia, there to be held and treated as a chattel.

William Brent was sworn and testified—I am a merchant, residing in Richmond; know Charles F. Suttle; he is a merchant; know the boy, Anthony Burns; the prisoner is said Burns; he is Suttle's slave; he was born in Suttle's family; I hired him of Suttle in 1847-'8-'9; I know he was missing from Richmond about the 24th of March last; have not seen him there since; have had no conversation with him here.

R. H. Dana, Jr., here rose and said:—

May it please your Honor—I rise to address the Court, as *amicus curiæ*, for I can not say that I am regularly of counsel for the person at the bar. Indeed, from the few words I have been enabled to hold with him, and from what I can learn from others who have talked with him, I am satisfied he is not in a condition to determine whether he will have counsel or not or whether or not and how he shall prepare for his defence. He declines to say whether any one shall appear for him, or whether he will defend or not.

Under these circumstances, I submit to your Honor's judgment that time should be allowed to the prisoner to recover himself from the stupefaction of his sudden arrest and his novel and distressing situation, and have opportunity to consult with friends and members of the bar, and determine what course he will pursue.

C. S. Parker, Esq., for the claimant. I feel bound to oppose the motion. The counsel himself says that the prisoner does not wish for counsel and does not wish for a defence. The only object of a delay is to try to induce him to resist the just claim, which he is now ready to acknowledge. The delay will cause great inconvenience to my client, the claimant, and his witness, both of whom have come all the way from Virginia for this purpose, and will be delayed here a day or two, if this adjournment is granted. If it were suggested that the prisoner was insane, out of his mind, and would be likely to recover soon, we could not object. As it is, we do object.

To this Mr. Dana replied—The counsel for the prosecution misapprehends my statement. I did not say that the prisoner did not wish counsel and defence. I said that he was evidently not in a state to say what he wishes to do. Indeed, he has said that he is willing to have a trial. But I am not willing to act on such a statement as that. He does not know what he is saying. I say to your Honor, as a member of the bar, on my personal responsibility, that from what I have seen of the man and from what I have learned from others who have seen him, that he is not in a fit state to decide for himself what he will do. He has just been arrested and brought into this scene, with this immense stake of freedom or slavery for life at issue, surrounded by strangers—and even if he should plead guilty to the claim, the Court ought not to receive the plea, under such circumstances. It is but yesterday that the Court at the other end of this building refused to receive a plea of guilty from a prisoner. The Court never will receive this plea in a capital case, without the fullest proof that the prisoner makes it deliberately, and understands its meaning and his own situation, and has consulted with friends. In a case involving freedom or slavery for life, this Court will not do less.

The counsel for the claimant objects to a delay; he objects on the ground of the inconvenience to which it will put the claimant and his witness, who have come all the way from Virginia for this purpose! I can asssure him, I think, that he mistakes the character of this tribunal, by addressing to it such an argument as that. We have not yet come to that state in which we cannot weigh liberty against convenience, and freedom against pecuniary expense. We have yet something left by which we can measure those qualities

I know enough of this tribunal to know that it will not lend itself to the hurrying of a man into slavery, to accommodate any man's personal convenience, before he has even time to recover his stupefied faculties, and say whether he has a defence or not. Even without a suggestion from an *amicus curiæ*, the Court would, of its own motion, see to it that no such advantage was taken.

The counsel for the claimant says that if the man were out of his mind, he would not object. Out of his mind! Please your Honor, if you had ever reason to fear that a prisoner was not in full possession of his mind, you would fear it in such a case as this. But I have said enough. I am confident your Honor will not decide so momentuous an issue against a man without counsel and without opportunity.

C. M. Ellis, Esq., also argued in favor of postponement. He stated that a decision in so important a case should not be given untll the fullest and fairest trial, and this they had a right to demand. There could be no fear of delay, with the power of the United States and Massachusetts to sustain the authorities; the only fear is that justice may not be done. The prisoner had the right to have all the allegations made against him proved, and also to be provided with counsel to advise him and conduct his defence. There is also a necessity, he said, for delay, in order that the friends of the prisoner may deliberate as to the course they shall pursue. In conclusion, he argued that justice, meagre as it is under this this law, should be meted out; but there should be no violence, no Court House in chains, but a full and fair investigation of the case.

The Commissioner then addressed the prisoner, who seemed frightened at his position, and informed him it was his right to have all the allegation s made against him proved by the clearest testimony; that he had also the right to have counsel and friends, and that if he desired a postponement he should accord it to him. The prisoner seemed in great doubt what to say. He glanced around the court house, apparently in search of some one. After a few moments delay, he, in a low voice, asked to have the case postponed. Accordingly Commissioner Loring postponed the further examination of the case to Saturday next, at nine o'clock A. M. Meanwhile the man will be kept imprisoned in the Court Room.

Thus, it appears that the kidnapping, authorized by the fugitive slave bill, is once more trying to flourish among us. The claimant, in this case, calls himself "Col. CHARLES F. SUTTLE, of Alexandria, Va." He is a big, bony, broad-shouldered, ugly-looking fellow, with a wisp of nasty-looking hair on his chin. He is attended by another fugitive slave bill kidnapper, called "WM. BRENT," or "BRANT," a small man of mean appearance, little eyes, and sandy hair.

There will be a meeting of the people in Faneuil Hall, this evening, to consider this matter. We have one word for our city officers. Let them read the Statutes of the Commonwealth, and consider well what they are about, before they allow themselves to be engaged in the service of these man hunters. It is just possible that our City Authorities will not again trample underfoot the laws of the State, in the service of the fugitive slave bill, without being held responsible ior it.

This man, whom Suttle claims as his slave, came to Boston about three weeks ago, and has been at work for Coffin Pitts, in Brattle street. Wednesday night, after he had put up the shutters and closed the shop, he went away in the direction of Court street. He was immediately followed by the man hunters, who had been lying in wait for him, under the orders of Watson Freeman, Pierce's United States Marshal. He was taken into custody by officers Coolidge, Riley, and Leighton. He made no resistance. They took him to the Court House, where he was kept all night under a strong guard. He seemed stunned and stupified by fear. The news of the arrest did not get abroad, and his valiant keepers did not deem it necessary to get out the old chain and stretch it round the Court House.

During the evening, Suttle was permitted to see and converse with him. This did not restore the poor fellow's equanimity and self-possession, especially when the slaveholder told him he must go with him to Virginia. Suttle told him to "make no noise about it," and go quietly, and he "shouldn't be hurt." He represents that the prisoner professed a willingness to go; but the public can easily appreciate this talk of "willingness" to be carried off as a chattel, in such a man, suddenly seized by the fugitive slave bill's bloodhounds, and stupefied with fear of the doom to which they attempt to drag him. Under such appliances, he is not likely to give a very clear account of what he is willing to do. So far as he understood what was said to him, he probably construed it thus:—"You *must* go with me as my slave; make no noise, go quietly, seem willing to go, and I will not harm you; but refuse to go and resist my purpose to take you away, and I will flog you horribly." Is it difficult to comprehend why he hardly dared, Thursday morning, to admit to the Commissioner that he desired a postponement of the examination?

"Shall Boston steal another man?" That is the question now before us. The federal Constitution was framed to "establish justice" and "secure the blessings of liberty," not to patronize the scoundrelisms of slavery. If it were otherwise, if the instrument were so atrocious, so false to the Declaration of Indepen dence, as to give one man a right to enslave another and make him his property, his chattel, it would still remain true, that it provides that the "trial of all crimes, except in cases of impeachment, shall be by jury," and that "in suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved."

In defiance and scorn of these great principles of the Constitution, these creatures of slavery come here armed with that infernal machine for kidnapping, the unconstitutional and most atrocious fugitive slave bill, and mean to deny this man's right to freedom, and subject him to slavery for life, without allowing him trial by jury, or admitting that freedom can have a right to make its claims heard of in presence of the slave power. They seized him in

the streets of our city, and in scorn of the great principles of the Constitution, and defiance of that due process of law which it says "shall be preserved," they mean to bear him off in triumph and plunge him into the hell of slavery. Then will these slaveholders again laugh us to scorn, sneer at us as "mean, sneaking, degenerate, pliant, huckstering, peddling Greeks," and boast that they will soon have a law authorizing them to hold slaves on Bunker Hill. "Shall Boston steal another man?"

Non-Intervention---Hands Off!

Gentlemen slaveholders—we understood you to say that the Nebraska bill was to establish the principle that the United States government had no right to interfere with the subject of slavery. Suppose you carry out that doctrine to its full extent. Watson Freeman, who holds the Fugitive in chains at the Court House, is an officer of the United States government, or in other words, an officer of the people, as much so as any officer elected directly by the votes of the people. He is paid by the PEOPLE for this job of infernal wickedness. The poor creatures whom he has placed to guard the man, are also paid by the people. It is all a joint and mutual job. WE ARE ALL IN IT, so far as paying the bills is concerned. Is not this, as Douglas says, "inconsistent with" the principle of non-intervention with slavery? If so, let Freeman be requested to follow out the doctrine, to its legitimate end, and let the sovereigns dispose of the question.

Sovereignty of the People!

This is one of the cries by which it is hoped to make the Nebraska bill palateable. Shall not the people of Nebraska say whether they will have slavery among them or not? Who shall deny the great American principle of self-government? As if the right of one man to *enslave his neighbor* was the right guaranteed in the Declaration of Independence. But no matter. Let us have that question decided by the people of Boston—by a "jury of vicinage." Are the people of Boston in favor of having a free man, guilty of no crime, seized and incarcerated in *their own* Court House, and guarded by *their own* officers? If they are not, let them say so

AT FANEUIL HALL, TO-NIGHT!

FANEUIL HALL TO-NIGHT.

For the third time Boston witnesses the disgraceful spectacle of a man charged with no the shadow of crime—accused of nothing but obedience to the upward yearnings of a spirit that bade him reach the same inalieable right to life, liberty, and the pursuit of happiness which we enjoy, and which the accursed statutes of Virginia denied him—chained like a felon in a Boston Court House, thus thrice degraded to a jail!—awaiting the mockery of a trial which shall doom him to all the unutterable misery, horror, and blackness of darkness faintly shadowed beneath that word—SLAVERY!—without once allowing him to look upon the face of a judge—the faces of a jury;—without giving him one chance for a future way of life far more precious than life itself, by securing to him the smallest of those priviliges of justice, won for him, as for us all, by the best blood of "exile and ancestor!"

To-night—thank God!—we meet in Faneuil Hall, without distinction of party, to consider our duty in the premises. Let there be a meeting of men who are thoroughly and religiously in earnest, and who are willing to do, and help do, every noble thing in their power to save the living soul and body of a fellow man from the blistering and withering Hell of Southern slavery! Let every man who reads these words remember that this is indeed one of the crises of Liberty, and let him look to it that he be not absent to-night from Faneuil Hall! The slave power crams the infamous swindle of a Nebraska bill down our throats, and then piles an outrage upon an insult, and undertakes to steal a MAN! Leave your fields, your work-shops, your stores, your homes—leave every occupation, duty, and pleasure, and swarm to Boston! Let no man who loves liberty for himself or another, and who has five dollars in his pocket, stay away! Northern yeomen and mechanics and tradesmen of every order, and degree! you owe to the genius of your Massachusetts liberty the solemn duty of your presence—you owe to her your stern, indignant PROTEST against this monstrous and atrocious wrong—if you owe nothing more!

The State Convention.

John P. Hale and Joshua R. Giddings will be among the speakers at the State Convention, which is to be held in Boston, (not in Worcester as at first announced,) on Wednesday next week. It is to be a mass Convention, for consultation and deliberation on the present exciting and threatening aspect of the slavery question. The slave power, which has hitherto been working its way towards complete and permanent supremacy in this republic, by means of that compromise policy which has given it repeated victories over freedom, now tears and tramples under foot the compromises to which it had pledged its pirate honor, and defies freedom to arrest its progress. Is it not time to have such a rising of the North as will annihilate the party machinery by which freedom is so constantly dishonored and betrayed, annihilate the whole race of "Northern men with Southern principles," and drive back this hideous power to its own place?

It is for the *people* of the North to say what shall be done. They have it in their power to overwhelm the foul conspirators, and rescue the country; and we do not believe they will now quietly submit to that selfish and profligate practice of party politics which has brought this evil upon us, and allow themselves to become sneaking slaves of the slaveholding aristocracy. The question is now before them. It is the only question that can make itself heard of in our politics—the only question that should engage our chief attention and direct our action in politics, until it is truly settled. Let us meet it like men. Come to the Convention, and let us take counsel together over this great "Lesson for the Day."

WHO ARE THEY?—It is surmised that the men who are guarding Burns at the Court House are the identical ones who passed the resolves in the Democratic County Convention, in favor of the extension of slavery into Nebraska, and fired guns on the Common in honor of such extension. They are probably paid by the Custom House. Let not the *City* have a hand in this business.

MAYOR AND ALDERMEN.—An adjourned meeting of this Board was held yesterday afternoon. Abel B. Munroe, Alderman elect, appeared, was duly qualified, and took his seat.

The petition of certain land-holders along the line of the New York Central Road in South Boston, asking the Mayor and Aldermen, as County Commissioners, to assess damages, came up. The Board assessed nominal damages, and assigned Monday next for fixing bonds in case an appeal is taken.

Petitions Referred.—Of Eben Francis to be paid for land taken to widen Beverly street; of Moses L. Capen for appointment on the Watch; of Buttrick & Co., Wm. Parker, agent of the Boston and Lowell Railroad, and others, for the extension of Charles street.

Petition for the use of Faneuil Hall.—A petition signed by Wendell Phillips, Timothy Gilbert, Henry I. Bowditch, Moses Kimball, J. D. Baldwin, Theodore Parker, and one hundred and fifty-two others, for the use of Faneuil Hall, on Friday evening May 26th, to take into consideration the arrest of an alleged fugitive slave under the Fugitive Slave bill, was presented and read, when Alderman Williams said:—

"Mr. Mayor,—In view of the gross outrage committed in this city last evening, to consider which the meeting named in the petition is called, I move that the usual formalities of referring the petition to a committee, be dispensed with, and that the petition be granted."

The motion was adopted, and the petition was granted without further debate.

DAILY ADVERTISER.

BOSTON:

FRIDAY MORNING, MAY 26, 1854.

FUGITIVE SLAVE CASE.—In another column we give a brief report of the arrest in this city of a fugitive slave from Richmond, reclaimed by his owner and brought before Mr. Commissioner Loring. There was no indication of a disposition to create disturbance, although a considerable number of colored men were seen about the Court House, and Court room. We trust they will not be encouraged to attempt any riotous proceedings, and that the authorities will be prepared to guard against any surprise for interrupting the legal proceedings. We are sorry to see a proposal made for a meeting on the subject at Faneuil Hall. The man claimed is in the custody of the Marshal, and we cannot suppose that any Faneuil Hall assembly will advise attempting his discharge in any other way than by the judgment of the court by whom his case is to be legally heard.

LOCAL MATTERS.

[Reported for the Boston Daily Advertiser.]

FUGITIVE SLAVE.—About 8 o'clock on Wednesday evening, U. S. Marshal Freeman arrested, on a warrant issued by U. S. Commissioner E. G. Loring, a negro named Anthony Burns, on a charge that he was a fugitive from service, having escaped from his master Charles T. Suttle, merchant, of Alexandria, Va. Burns was arrested in Court street, near the head of Brattle street, and conducted to the Court House, where he remained under guard during the night. Burns is said to have escaped from his master in Richmond, Va. in March last, and came in this city, where he has been at work for Coffin Pitts, dealer in second hand clothing in Brattle street. He is about 23 or 24 years old. Yesterday morning he was examined before Commissioner Loring in the U. S. Court room, Seth J. Thomas and Edward G. Parker, Esqrs. appearing for the claimant, and Messrs. Dana, Ellis, Morris and others for the fugitive. Mr. Parker read copies of the record of the Circuit Court of Virginia, certifying the fact of the application of Mr. Suttle concerning the escape of Burns from his service. He then called as a witness William Brent, who testified that he resided in Richmond, knew Mr. Suttle, who now resides in Alexandria; knew Anthony Burns, indentified him as the one referred to in the record which had been read; that he is owned by Mr. Suttle as a slave and was formerly owned by Mr. Suttle's mother. Witness once hired him of Mr. Suttle; knew that he was missing from Richmond on or about the 24th of March last; has not seen him since till within a day or two.

At this point Mr. Dana suggested a delay in order that the respondent might have time to confer with counsel, and prepare for cross examination of witnesses.

Mr. Parker objected, and stated that he believed the respondent was willing to return to Virginia with his master. Burns expressed a wish to have time to determine what course it was best to pursue, and therefore the Commissioner adjourned the further hearing of the case until Saturday next, at in o'clock, A.M.

The proceedings were conducted so quietly that very few persons besides the officers knew what was going on During the examination some 30 or 40 colored persons collected in and about the Court House, but owing to the precautions taken by Marshal Freeman, quiet was preserved. Burns will remain in the custody of the U. S. Marshal until the termination of the case.

Commonwealth.

Boston, Saturday, May 27, 1854.

MORNING EDITION.

The following document will show the public how to estimate the infamous falsehoods that have been in circulation relative to the arrest of the colored man now under keepers in the Court House, and his alleged "willingness" to return with the man who claims him as a chattel. The poor fellow shows that he knows who his real friends are, by appointing Mr. Pitts as one of his Attornies, the gentleman in whose employ he has worked since he came here, and whom he thus recognizes as a truer friend than his Virginian pretended owner :—

THE FUGITIVE SLAVE
TO THE PUBLIC.

ANTHONY BURNS, the alleged fugitive, this morning stated to us that he was arrested upon the false charge of robbing a jeweller's shop! That the statement that he wished, or is willing to return to slavery,

"IS A LIE!"

That he never so stated to any person. He has given to us full power, under his own hand and seal, to act as his attornies, and has requested us to do everything in our power to save him from going back to slavery.

(Signed) COFFIN PITTS,
WENDELL PHILLIPS.

May 26, 1854.

A writ of personal replevin from the Court of Common Pleas was placed in the hands of C. Smith, coroner, yesterday, directing him to replevy the body of Anthony Burns from the custody of Watson Freeman, and bonds in a large amount were given to Mr. Smith to indemnify the defendant, Freeman, as required by the statute. Mr. Smith served the writ on Mr. Freeman, but he refused to deliver up his prisoner, or to show him to the coroner.

Judge Russell, Mr. Sewall, and Mr. Dana applied to Judge Sprague to appoint a person to serve a writ *de homine replegiendo* on Mr. Freeman, from the United States Circuit Court, under the provision for special service where the Marshal is a party. After a full hearing on the law, Judge Sprague decided that he had no authority to issue the writ.

Application was made to the Marshal by Rev. Mr. Grimes, the clergyman of the colored people, Mr. Wendell Phillips, and Deacon Pitts, for leave to visit the prisoner, but it was refused, the Marshal saying that no one should visit him but Mr. Dana. On a special application, made by Mr. Dana to Judge Loring, the Commissioner, he directed Mr. Freeman to allow two or three friends of the prisoner to visit him, if he desired to see them. After this, Mr. Phillips, Rev. Mr. Grimes, and Deacon Pitts visited him. At first they were not allowed to talk with him privately, but after remonstrance, they were permitted to see him in a corner of the room, out of hearing of the officers. There were some ten or twelve officers in the room. The prisoner assured them that he had never expressed a willingness to return, but dreaded it extremely. We understand he has said the same to Mr. Dana. He desires every chance for his liberation to be availed of.

THE SLAVE CATCHER'S COMMISSIONER REBUKED.—Yesterday morning, as Commissioner Loring made his appearance at the lecture room of the Law School, at Cambridge, for the purpose of delivering his usual Friday lecture, he was received by the students with a storm of hisses, and other marks of disapprobation, mingled with cheers from the "chivalry," who of course came to the rescue. We are glad to know that some of the students of this Institution have not forgotten NATHAN DANE, its founder—but are imbued with the same spirit that made him love freedom and hate slavery.

Mr. J. W. LEIGHTON, Constable, wishes it stated that he is not the Joel A. Leighton who helped to arrest the fugitive, and wishes it distinctly stated that he is not concerned in such "dirty business." We understand that "Joel A. Leighton" is not an "officer," but a hanger-on about the Court House, for whatever jobs of the sort may happen to turn up for him.

Yesterday, a writ for conspiracy to kidnap, was served on the slave claimant, Suttle, at the Revere House. Henry Hallet, of Boston, became his bail in the sum of $10,000.

THE MEETING AT FANEUIL HALL.

An immense concourse of people assembled at Faneuil Hall, last night. The Hall was densely crowded; all the passages were filled, and there was a crowd outside. The meeting was called to order by Hon. Samuel E. Sewall, and it was organized as follows:—

Boston Journal.

SATURDAY EVENING, MAY 27, 1854.

☞ The disgraceful scenes of violence which transpired in this city last evening—the exciting meeting in Faneuil Hall—the lawless counsels which there prevailed—the violent attack upon the Court House—and last and most to be deplored, the murder of an officer who was faithfully discharging his duty,—are well calculated to lead the peaceable and well disposed—those who respect the laws, and who recognize the authority of a properly constituted government—to reflect upon the nature and tendency of the insane efforts which are making to rescue an alleged fugitive from the custody of the United States authorities. If unrestrained passion is to be allowed full sway—if lawless violence is to go unrebuked, and men high in social position are to become the leaders of a mob—if a law of the United States is to be trampled under foot, and the officers of the government shot down in the discharge of their duty, and this without rebuke, then indeed will a blot rest upon the fair fame of our city, and Boston will be degraded in the estimation of the whole Union.

We take a more hopeful view of the present excitement. We know that the great majority of our citizens are well disposed. They will uphold the constitution and support the laws. They will sustain the authorities in the firm and decided stand which they have taken to put down mob violence, and will aid in the preservation of order. The law will triumph over the passions of an infuriated mob. Of this we have an evidence in the promptness and success with which the city authorities have met the crisis, and in the readiness with which the citizen soldiery—who are with the people and of them—have responded to the call of duty.

The self-constituted friends of the alleged fugitive, have certainly taken a very injudicious course, and one which has tended to embarrass any properly directed efforts to rescue the unfortunate man from a return to slavery. They did not wait to try the virtue of legal proceedings. In their eagerness to trample upon the fugitive slave law, they forgot that inflammatory appeals and mob violence, instead of increasing the sympathy which every one felt for the unfortunate prisoner, would only arouse a feeling of indignation, and a deep settled determination among the law abiding portion of the community to sustain the authorities in enforcing the laws. The cause of Burns has thereby suffered, and the man who might now have been free by the voluntary transfer of the claim by which he is held, is still confined in the Court House, under the guard of United States troops, and in actual bodily fear lest some indiscreet friend should endanger his life rather than see him returned to slavery.

We are glad that the excited and violent leaders of the mob have been allowed time for their passions to cool, and for reflection upon their unwise course. The real friends of the alleged fugitive can now devise some means to secure his freedom without transgressing the laws. There is evidently a disposition on the part of the Commissioner to extend to Burns all the favor which is consistent with his duties, and with a proper administration of the law. We have no fear, with the able counsel who have been employed in his behalf, that the case will be summarily disposed of, and if the worst fears of the friends of Burns should be realized—if he should be remanded by the Commissioner to the custody of his claimant—his rescue from slavery may yet be effected without resorting to violent means, which under any circumstances are unjustifiable.

In the holy hours of the Sabbath—by the quiet of the domestic fireside—let those who have been instrumental in inciting to deeds of violence and bloodshed reflect upon the deplorable consequences of their rashness, and upon the duty which they owe to their country, as Republican citizens—to the State, whose fair fame should be above all price—and to the city, upon the maintainance of the peace and order of which their own personal security so intimately depends. Let them consider well how they can best serve the cause of the poor fugitive, whose rescue by violent means they cannot hope to effect, rather than in what manner they can most strongly show their contempt and hatred for an obnoxious law. Above all, let them consider whether the deep, earnest and abiding feeling which exists at the North in favor of human freedom, may not be made more available in its opposition to the slave power, if more moderate measures, and wiseer counsels should mark the course of those who claim to be its peculiar champions.

"Then, Mr. Bird said, I went to the *Journal* office—the *Journal* is a very respectable paper; belongs to the anti-slavery religious Whig party. I went to the clerk in the counting room and he said I must see the editor; so I climbed up five or six pairs of stairs and found the editor, and he said he would not publish it in his editorial columns; that he would not publish anything which would tend to produce excitement. I said it was rather hard that you had published the lie that he wanted to go back to slavery, and now won't publish the truth."—*Extract from Report of Faneuil Hall Meeting.*

Mr. Bird has correctly stated the reply which was made to his request that we should publish an incendiary card in the editorial columns of the *Journal*, and we are ready to submit our course, and the motives by which it was actuated to the judgment of an impartial community. Men who are laboring under such extreme excitement that they must charitably be supposed to be unaccountable for their acts—men who deliberately advise resistance to the laws and counsel to deeds of violence and bloodshed—men who declare that there is now no law in Massachusetts, and the people may act in their own sovereignty—are not proper persons to have unrestrained liberty to print and publish their violent invectives through the columns of a widely circulated newspaper.

We do not, under any circumstances, recognize the *right* of any person to demand the admittance of a card in the editorial columns of this paper. If a statement has been inadvertently made therein to the injury of any party, which can be shown to be unfounded, we are ready at all times to make the required correction, and to place the matter in its true light before the public. But we claim, and shall exercise, the right to do this in such manner and form as we may deem to be just and proper, and shall admit no communication or denial which is not respectful in its tone or which is obviously incendiary in its character.

The specific charge made by Mr. Bird in the last sentence which we have quoted, and upon which the card that he brought to us was based, is without foundation in fact. We did not state that Burns wanted to go back into slavery, and of course there was no occasion for a denial of the report in the columns of the *Journal*.

The Fugitive Slave Case!

THE MASTER ARRESTED AND HELD TO BAIL!

ATTEMPTED RESCUE OF BURNS!

Doors of the Court House Stove In!

ONE MAN KILLED!

The United States Troops Posted in the Court House.

THE BOSTON MILITARY ORDERED OUT.

No unusual excitement was perceptible about the

Court House during the day yesterday, and the fugitive, Burns, remained under guard. During the forenoon, a writ was issued by Seth Webb, Esq., on an action of tort, for the recovery of $10,000 damages against Messrs. Charles F. Suttle and William Brent, "for, that the said Tuttle and Brent on the 24th day of May instant, well knowing the said Burns to be a free citizen of Massachusetts, conspired together to have the said Burns arrested and imprisoned as a slave of said Suttle, and carried to Alexandria, Va," &c., &c.—Lewis Hayden, a colored man, was the complainant in the case.

The writ was served upon Messrs. Suttle and Brent, and they gave the required bail in the sum of $5000 each.

Subsequently, Chief Justice WELLS issued a writ of replevin against U. S. Marshal Freeman, directing that officer to bring the body of Anthony Burns, the fugitive, before the Court of Common Pleas, on the 7th day of June next, but the Marshal did not obey the order.

Soon after Burns' arrival here, as it now appears, he wrote a letter to his brother in Alexandria, who is also a slave of Mr. Suttle's, stating that he was at work with Coffin Pitts, in Brattle street, cleaning old clothes. This letter he dated in "Boston," but sent it to Canada, where it was post-marked and sent according to the superscription, to Burns' brother in Alexandria.

As is the custom at the South, when letters are received directed to slaves, they are delivered to the owner of such slaves, who opens them and examines their contents. This appears to have been the case with Burns' letter, and by his own hand his place of retreat was discovered by his master.

An excited meeting was held in Faneuil Hall last night, to take measures to prevent the return of the fugitive. We have given a sketch of the doings, on the first page. The meeting was terminated very abruptly by a report that an attempt was then making to rescue the fugitive.

The Attempted Rescue of Burns.

On the abrupt termination of the meeting in Faneuil Hall, the excited crowd rushed for Court Square, pell mell, shouting "Rescue him!" "Rescue him!" &c.—Entering upon the Eastern Avenue, in the space of a minute or two, several hundred people had collected. The officers in the building closed the doors, when some dozen people, some of whom were colored, rushed up the steps, and commenced pounding on the doors. A pistol was fired by some one in the crowd. A pistol was shortly fired on the Westerly side of the Court House, when the crowd rushed round the building.—Here, some two thousand people collected in a very brief space of time. Several pistols were fired in the streets.

The crowd immediately commenced an assault upon the south door, on the West side, with axes, and a battering-ram, in the shape of a heavy beam, some twelve feet long, which was at once launched upon the stout oak door. The battering-ram was manned by a dozen or fourteen men, white and colored, who plunged it against the door, until it was stove in. Meantime, several brickbats had been thrown at the windows, and the glass rattled in all directions. The leaders, or those who appeared to act as ringleaders in the melee, continually shouted: "Rescue him!" "Bring him out!" "Bring him out!" "Where is he?" &c., &c. The Court House bell rung an alarm at half past nine o'clock.

When the doors were opened, two or three persons rushed into the entry, but the officers in the building, who were mustered in full force on the stairs, gave the valorous rioters so warm a reception with clubs and swords, that they quickly retreated to the streets. Two shots were discharged in the entry, which appeared to intimidate the rioters somewhat, and they retreated to the opposite side of the street. At this time, a large deputation of police from the Centre Watch House, arrived upon the ground, and in a few moments arrested several persons and took them to the Watch House.—Stones were occasionally thrown at the windows, and shouts continued to be made, but the firm stand of the officers stationed within the building, with the support they received from the police, prevented any further demonstration.

The saddest part of this outrage on the part of the mob rests in the fact that human life has been sacrificed.

At the time the mob beat down the westerly door of the Court House, several men, employed as United States officers, were in the passage-way, using their endeavors to prevent the ingress of the crowd, and among the number, was Mr. James Batchelder, a truckman, in the employ of Gil. Peter Dunbar, who, almost at the instant of the forcing of the door, received a pistol shot, (evidently a very heavy charge,) in the abdomen. Mr. Batchelder uttered the exclamation, "I'm stabbed," and falling backwards into the arms of watchman Isaac Jones, expired almost immediately. The unfortunate man resided in Charlestown, where he leaves a wife and one or two children to mourn his untimely death.

At the time of forcing the door, and just as the fatal shot was fired, one of the rioters, who was standing on the upper step, exclaimed to the crowd, "You cowards, will you desert us now?" At this moment the exclamation of Mr. Batchelder, "I'm stabbed!" was heard, and the rioters retreated to the opposite side of the street.

In the meantime a white man rushed into the crowd and distributed several meat axes, with the blades enveloped in the original brown papers. Two or three of these axes were subsequently picked up by the officers, and were deposited in the Centre Watch House.

Shortly after the death of Mr. Batchelder, Coroner Smith took charge of the body, and will hold an inquest to-day.

After the arrests had been made, the crowd, although excited, remained quiet, but a new element was introduced by the arrival of a military company. The Boston Artillery, Capt. Evans, were in the streets for their usual drill. When they marched up Court street, the mob at once supposed them to be the U. S. Marines, come to preserve order, and they were at once saluted with hisses, groans, and other marks of derision. Capt. Evans, seeing an excited crowd, and not knowing anything of the disturbance, immediately marched his command down the West side of the Court House, and halted in the square, the crowd giving way. When the cause of the appearance of the company was explained, the crowd gave them three cheers, and the company departed.

By order of the Mayor, the Boston Artillery and the Columbian Artillery, were ordered out, and about midnight they took quarters in City Hall, where they remained during the night, waiting further orders.

A large force of officers were detailed for duty during the night outside the Court House, and throughout the whole evening and night, an additional strong force was inside fully armed and prepared for any emergency.

Such arrangements have been made by the U. S. Marshal, and by Chief of Police Taylor, together with the orders of the Mayor, that any and all attempts at rescuing the fugitive or creating an evil disposed mob, will be met with the most certain and successful defact.

The examination of the fugitive now in custody will be resumed at 9 o'clock this morning, and none who are knowing to the facts, doubt that justice will be administered and the laws of the country duly executed.

The westerly side of the Court House shows the effects of the assaults made upon it last night. The door which was forced is well battered up; and there are between forty and fifty panes of glass broken. Two or three of these bear evidence of having been perforated with bullets.

TEN O'CLOCK, A. M.

It is estimated that from seven to ten thousand persons are now in Court Square.

The body of the unfortunate officer Batchelder, who fell a victim to the unrestrained passions of the mob last night, has just been removed by order of Coroner Smith, to his late residence in Charlestown. As the coffin was being placed in the covered carriage which conveyed it out of the Square, the noisy outcries of the assembled multitude were hushed, and quiet reigned until the vehicle which bore the body had left the Square.

When other vehicles passed through the square, the riotously disposed were quite boisterous, and crowded upon the officers who were stationed about the easterly entrance of the Court House. Three or four of the most forward in these disturbances were promptly arrested and committed to the Centre Watch house. These summary arrests tended to cool the ardor of the riotous, and order was once more restored for a time.

Marshal Freeman had a very narrow escape, a ball having struck the wall quite near him, while he was leading his men up to repulse the individuals who had broken in. His son, who was present, ran into the crowd, crying "Father, you will be shot," and he was quite close to Batchelder when he fell."

GEORGE R. RUSSELL, of Roxbury, *President.*

Vice Presidents—Samuel G. Howe, William B. Spooner, Francis Jackson, Timothy Gilbert, F. W. Bird of Walpole, Rev. Mr. Grimes, Albert G. Browne of Salem, Gershom B. Weston, of Duxbury, T. W. Higginson of Worcester, Charles M. Ellis of Roxbury, Samuel Wales, Jr., Samuel Downer, Jr.

Secretaries—William I. Bowditch and Robert Morris.

On taking the chair, Judge Russell said, he had once thought that a fugitive could never be taken from Boston. But he had been mistaken! One had been taken from among us, and another lies in peril of his liberty. The boast of the slaveholder is that he will yet catch his slaves under the shadow of Bunker Hill. We have made compromises until we find that compromise is concession, and concession is degradation. (Applause.)

The question has come at last whether the North will still consent to do what it is held base to do at the South. Why, when Henry Clay was asked whether it was expected that Northern men would catch slaves for the slaveholders, he replied, "No! of course not! We will never expect you to do what *we* hold it base to do." *Now*, the very men who had acquiesced with Mr. Clay, demand of us that we catch their slaves. It seems that the Constitution has nothing for us to do but to help catch fugitive slaves!

When we get Cuba and Mexico as slave States—when the foreign slave trade is re-established, with all the appalling horrors of the Middle Passage, and the Atlantic is again filled with the bodies of dead Africans, then we may think it time to waken to our duty! God grant that we may do so soon! The time *will* come when Slavery will pass away, and our children shall have only its hideous memory to make them wonder at the deeds of their fathers. For one I hope to *die* in a land of liberty—in a land which no slave hunter shall dare pollute with his presence. [Great Applause.]

The following resolutions were presented by Dr. Saml. G. Howe, and unanimously adopted:—

Resolved, That the people of Massachusetts having declared in the first article of their Constitution, that "all men are born free and equal, and have certain natural, essential and inalienable rights:" are solemnly bound to stand by their declarations, by refusing to recognize the existence of any man as a slave on the soil of the old Bay State.

2. *Resolved*, That the perfidious seizure of Anthony Burns, in this city, on Wednesday evening last, on the lying pretence of having committed a crime against the laws of this State—his imprisonment as an alleged fugitive slave in the Court House, under guard of certain slave-catching ruffians—and his contemplated trial as a piece of property to-morrow morning—are outrages never to be sanctioned, or tamely submitted to.

3. *Resolved*, That the time has come to declare and to demonstrate the fact that no slave-hunter can carry his prey from the Commonwealth of Massachusetts.

4. *Resolved*, That (in the language of Algernon Sidney,) "that which is not just is not law, and that which is not law ought not to be obeyed."

5. *Resolved*, That, leaving every man to determine for himself the mode of resistance, we are united in the glorious sentiment of our Revolutionary fathers—"Resistance to tyrants is obedience to God."

6. *Resolved*, That of all tyrants who have ever cursed the earth, they are the most cruel and beastly, who deny the natural right of a man to his own body—of a father to his own child—of a husband to his own wife; whose traffic is in human flesh and broken hearts; who defend chattel slavery as a divine institution; and who declare it to be their unalterable purpose indefinitely to extend and forever to perpetuate their infernal oppression.

7. *Resolved*, That as the South has decreed, in the late passage of the Nebraska bill, that no faith is to be kept with freedom; so, in the name of the living God, and on the part of the North, we declare that henceforth and forever, no compromises should be made with slavery.

8. *Resolved*, That nothing so well becomes Faneuil Hall as the most determined resistance to a bloody and overshadowing despotism.

9. *Resolved*, That it is the will of God that every man should be free; we will as God wills; God's will be done!

10. *Resolved*, That no man's freedom is safe unless all men are free.

The meeting was then addressed by Hon. F. W. Bird, J. L. Swift, Esq., Wendell Phillips, and Theodore Parker, whose several speeches were received with the greatest enthusiasm. At 10 o'clock the assembly adjourned.

Disturbance at the Court House—A Man Killed.

An excited crowd gathered around the Court House, last night, and between ten and eleven o'clock there was a rather serious disturbance. One of the doors was assailed and forced open. The keepers of the fugitive fired upon the crowd, and otherwise assailed those at the door. No shots were fired from outside; but one man inside was killed by a pistol ball, which seems to have been fired by one of his companions, who handled his pistol carelessly. The name of the man killed was James Batchelder. He was a teamster, in the employ of the Custom House, or rather in the employ of Peter Dunbar & Co., Custom House truckmen. None of the shots fired at the people took effect; but some of those at the door were injured by the sabres of the Marshal's helpers. Brickbats and stones were thrown from the crowd, injuring the windows.

At about 11 o'clock, two companies of city military—the Columbian Artillery Capt. Cass, an *Irish* corps, and the Boston Artillery, Capt. Whorf, the whole under command of Col. Cowdin, ordered out by Mayor Smith, to preserve the peace, arrived on the ground, the former being received with hisses, and the latter with cheers. They were soon after quartered—the Irish company in the Court House, and the other in the City Hall. At 12 o'clock there were not more than thirty persons on the ground, and everything appeared quiet, for the night.

The following persons were arrested by the police during the affair:—Albert G. Browne, Jr., John J. Roberts, Henry Howe, John Thompson, Walter Finney, John Westley, Thomas Jackson, and Westley Bishop. Tney were charged with disturbing the peace; but it is possible that some of them, at least, were there merely as lookers on.

[Reported for the Boston Daily Advertiser.]

MEETING AT FANEUIL HALL.—A meeting was held, last evening at Faneuil Hall, to consider the subject of the arrest of the fugitive slave, Anthony Burns, and to consult as to what measures it was proper or expedient for the friends of Burns to take in the case. The meeting was called to order by Samuel E. Sewall Esq. George R. Russell, Esq., presided, assisted by six or eight Vice Presidents. William I. Bowditch and Robert Morris were appointed Secretaries. Mr. Russell, on taking the chair, said they had assembled to protest against the arrest of the fugitive, but not to encourage violence. The meeting was then addressed by Francis W. Bird of Walpole, and —— Swift. Dr. S. G. Howe offered a series of resolutions, and when we left the Hall, Wendell Phillips, Esq , was speaking. Some of the audience occasionally exhibited considerable enthusiam, but on the whole, the meeting was as orderly as could reasonably have been expected. While Mr. Phillips was speaking, it was announced that a crowd had assembled in Court Square, and the meeting immediately adjourned, most of the people wending their way towards the Court House, apparently more from curiosity than for any evil purpose.

The people who had previously assembled in Court Square began to show indications of an attempt to rescue the fugitive who was in one of the upper rooms of the Court House. Several of the windows were broken, and the middle door on the west side of the building was burst open, but the insurgents finding a strong force inside prepared to meet them, they desisted from further violence. The crowd loitered about the building for some time, but gradually dispersed.

We have since learned that a pistol was fired from the Court House, and a man killed, whose name we did not learn. Another man is also said to have been wounded.

Commonwealth.

From the Evening Edition of Saturday.

Commissioner's Court.

THE EXAMINATION OF THE FUGITIVE SLAVE CASE.—By 9 o'clock the U. S. District Court room was filled by a select company, admitted only after the closest scrutiny—and consisting first, of the prisoner, an intelligent looking negro, about 30 years of age, with good physiological developments; next, on either side of him, seated in the rear of the bar, five stalwart special deputy marshals, among them the notorious Tom Dollivar, of Sims notoriety, all armed with revolvers in their breast pockets; in the rear of these, such worthies as Lewis Clark, who crowded from his seat a respectable colored English lawyer, appropriating it to himself; on the bench, the classical and refined Commissioner, seeming to regard the occasion as a most disagreeable one; before him, the respective counsel for the different parties; on the east side of the room, numerous United States officers, whose troops from the Navy Yard were barracked in the apartments overhead; before these, on the front seat, were the miserable-looking, but far more miserable-acting kidnappers, reinforced by one or two bew hiskered Southerners, who affected to look with contempt on the counsel for the prisoner, and other *men* who were pointed out to them; and finally, throughout the chamber, numerous reporters, citizens, members of the bar, and friends of the prisoner, though the pimps of the government were as two to one.

At 10 o'clock, E. G. Parker, Esq., junior counsel for the claimant, rose and stated he supposed it was not necessary to go over again the evidence adduced at the preliminary examination, and was proceeding with some statement to the Commissioner, when

C. M. Ellis, Esq., one of the counsel for the accused, interrupted him, saying he desired the presence of Mr. Dana, his associate in the case, before anything was said.

The Commissioner signified the propriety of the delay.

At 20 minutes past 10, Mr. Ellis asked for delay in the proceedings, in order that suitable preparation might be made for the defence—the delay of the two days being given to the prisoner to elect whether he would make a defence or not. It was not till Friday afternoon, that he and his colleague, Mr. Dana, understood they were to act as counsel for the prisoner. Until on Friday afternoon, also, no opportunity was given to any parties to see and converse with the prisoner, thus virtually making the arrest take place at that time. Besides, he thought no man possessed that calmness of mind necessary to go on with this case at this time.

These points he argued with clearness and force, and was listened to with deep interest. He had supposed that there would not be another case of this kind in Boston; that the law having been executed in Boston, the country would be satisfied; but such was not to be the case. Under a different state of public opinion, he thought the precedents of the former case would not now, if for the first time made, be established. He prayed his Honor to consider that he acted as both judge and jury in this case, and trusted his response to the request would be such as would reflect credit upon his humanity, his justice, and his love of country.

Mr. Parker, in behalf of the claimants, argued that a sufficient delay had been rendered, and nothing would be gained by further postponement.

Seth J. Thomas, Esq., senior counsel for the claimant, argued that before the motion for delay was granted, it should be shown that there was a defence ready to be presented. These are but preliminary proceedings, the question of his freedom being settled in the State to which he may be conveyed. He admitted that when the arrest was made, the man was not in condition to frame a defence; but now he thought such was not the case. He intimated that the continuance of the case might result in similar scenes and loss of blood as those of Friday night. Touching at length upon almost every topic growing out of this case, he concluded with the expression that he saw nothing in the objections urged against going on, that did not rather apply against the fugitive law itself.

Richard H. Dana, Jr., Esq., for the defence, replied that he thought the considerations presented by the other side had anything but a bearing upon the case. It was not what should be done with the man, or as to the constitutionality of the fugitive law, or any similar point, but simply whether we should be hurried into this trial, all unprepared, at the expense of justice and freedom. It was true that the fugitive law spoke of *summary* proceedings, but even in the Sims case more delay was had than in this case. He then reviewed the circumstances of the arrest, and the fact that till Friday afternoon the prisoner had had no opportunity to consult with friends, the Marshal up to 11 o'clock, on Friday, allowing no friend to see him, and then only at the command of the Commissioner.

It is less than 24 hours since any man was permitted to see the prisoner, and that only would have been permitted but by the order of His Honor. He then learned that counsel was wanted in the case, and it was about 2 o'clock that the counsel for the defence were engaged. The prisoner then pronounced the statements he wished to go back false. Under these circumstances, he (the counsel) did not feel that he could go on with the case in justice to the prisoner. Now it was said that if delay was granted, violence would ensue. What is that to us! If the law is not strong enough to preserve the peace, shall the man suffer? Let not the right of liberty be jeopardized by weakness in the law. Such a consideration was to be put to no court. It is a confession of weakness. The prisoner was one without hope—a prisoner to despair. All the proceedings against him were *exparte*, and he now for the first time puts in a claim to be heard on the other side.

He would ask his Honor if he would force counsel on to a trial on such evidence as had been adduced, taken in the absence of the prisoner, under the provisions of a law unlike any other in Christendom? It is because the prisoner is to be taken before no other court that we ask for delay. Indeed, there is no requirement that he shall be taken back to Virginia. He may be taken to Texas, or to Cuba, or anywhere else his master pleases. But he had it from the prisoner's own lips that he feared, indeed he knew almost to a certainty, that he was not to go to Virginia, but would be put upon the first block for sale to the New Orleans market, to languish and die upon the cotton fields of Louisiana. Supposing, after the certificate had been granted, the claimant turns up here, and is asked, Did you take that man to Virginia? and the response comes—What is that to

you?—where would be the satisfaction that could be felt under the plea that the prisoner would have a trial in Virginia, and these proceedings were only "preliminary?"

Mr. Dana continued in scorching comments on the language of Mr. Thomas, in reference to proceeding at once with the case, and some correlative circumstances, which should be given *verbatim* to be appreciated in their force by our readers.

Mr. Thomas explained his language, and Mr. Parker was authorized to say that the claimant was disposed to dispose of the man to parties in Boston, and that if the terms were complied with, he would be transferred to parties who desired his freedom.

Mr. Commissioner LORING, in reply, said that this was not a court of continuance, having periodical sessions, but one with jurisdiction until the subject in hearing was disposed of. Hence there could not be such a thing as *postponement* definitely; but there might be reasonable delay. The prisoner having signified a desire for counsel, and that counsel expressing themselves not ready to go on,—in view of the comparatively little inconvenience to the claimants, but of the great hazards and personal risks to the respondent, he thought a delay of one or two days, and even of two or even more upon that, if necessary, would not jeopardize the cause—he should grant the motion for delay, and adjourn the hearing till Monday morning to 11 o'clock. The Court was accordingly adjournrd to that time.

This decision, with the Commissioner's liberal remarks, together with Mr. Dana's most searching and vigorous address, gave great satisfaction to crowds inside and out of the Court-room.

THE PLOT IS OUT.

We are informed on the very best authority—it came from the lips of a gentleman from Northern Virginia, now stopping in this city—that arrangements were made by the slave claimant, Suttle, three weeks ago to take back Anthony Burns.

In conversation with a gentleman at one of our principal hotels, Friday night, the Virginian said Suttle's agent was here three weeks ago, and made his arrangements; "but," said he, "his counsel in Washington, and leading men in Virginia, whom he consulted, led him to defer the arrest until the passage of the Nebraska bill. We wished to test the question, and see if the North will interfere with the execution of the Fugitive Slave law." He averred that the arrangements made at that time would have taken Burns away without the necessity of bringing him before the Commissioner. But they chose to make noise about it, in order to test Northern feeling and put this infamous measure into operation on the very summit of the Nebraska outrage, and a fund was raised in Virginia to defray Suttle's expenses. Take this to your thoughts, citizens of Massachusetts! THE PLOT IS OUT. This proceeding was deliberately plotted as an outrage to your principles and feelings.

SATURDAY MORNING, 10 o'clock.

A large and rapidly increasing crowd surround the Court House. A detachment of United States marines (mostly Irishmen,) occupy the building. Some of the windows are garnished with small squads of them, curiously watching the crowd. We are told that Mayor Smith has ordered the U. S. Marshal to remove the fugitive from the building, saying that "the Court House was not built for a Jail, and it shall not be used as such!" The probability is that proceedings will be hurried through, and the fugitive taken over to the Navy Yard.

Troops were brought up from fort Independence and arrived here about half past six o'clock this morning, in the steamer John W. Taylor. Deputy Marshal Riley was sent after them. They are in command of Major S. C. Ridgley and Lieutenants O. B. Wilcox and O. A. Mack. The Marines from the Navy Yard number about 50, and are in command of Lieut. Col. Dulaney, with Capt. J. C. Rich, 1st Lieut. Henry W. Queen, 2d Lieut, A. N. Balsar.

The north-westerly door of the Court House, which was assaulted by the crowd last night, was broken by using a stick of timber as a battering ram? Pistols were fired from the door, and also from the windows of the Court House, and all our informants aver that no shots were fired from the crowd around it outside. Those who were looklng on and saw the whole affair, say that when Batcheller fell, the flash of a pistol was seen on the stairs behind him, and they think he was killed by this shot, carelessly directed by some one whose nerves were much excited. Coroner Smith will hold an inquest on the body, to-day. Oh, when will the government be delivered from this outrageous despotism of the slave power and its unconstitutional and wicked laws! The circumstances that put the hunters on the track of this man, and brought them to Boston, are reported as follows:—

Soon after Burns' arrival here, as it now appears, he wrote a letter to his brother in Alexandria, who is also a slave of Mr. Suttles, stating that he was at work with Coffin Pitts, in Brattle street, cleaning old clothes. This letter he dated in "Boston," but sent it to Canada, where it was post-marked and sent according to the superscription, to Burns' brother, in Alexandria. As is the custom at the South, when letters are received directed to slaves, they are delivered to the owner of such slaves, who opens them and examines their contents. This appears to have been the case with Burns' letter, and by his own hand his place of retreat was discovered by his master.

ONE O'CLOCK, P. M.

While the Marshal packs and desecrates the Court House with his friends and adherents—Custom House officers, loafers and toadies, and all such creatures as slavery uses in the free States as bloodhounds—admittance is refused to peaceable and respectable citizens. One of the most respectable gentlemen who went to the Court House this morning, was savagely throttled and handled, while he was there in the most peaceable manner, and merely wished to enter.

The infernal fugitive slave bill rules Boston Court House, tramples on our citizens, and, surrounded by its creatures with United States troops at their service, glares and gnashes its teeth at us defiantly. One current of excitement among the people, produced by the appearance of the Irish military to support the kidnapping bill, led to the following hand-bill which was circulated about the city, this morning:—

AMERICANS TO THE RESCUE!

IRISHMEN UNDER ARMS!

Americans! Sons of the Revolution!! A body of seventy-five Irishmen, known as the "Columbian Artillery!" have volunteered their services to shoot down the citizens of Boston!! and are now under arms to defend Virginia in Kidnapping a citizen of Massachusetts!! Americans! These Irishmen have called us "cowards! and sons of cowards!!" Shall we submit to have our citizens shot down by a set of vagabond Irishmen?

Wendell Phillips, on his passage into the Court House, this morning, was greeted with tremendous

cheering by the immense concourse of citizens that filled the square. This is an indication of the depth of public sympathy in relation to this atrocious outrage now perpetrating in our midst.

Mayor Smith has issued a placard calling for the co-operatton of all good citizens in support of the *law* (!) &c. Does he mean the kidnapping law? Will he support the law of Massachusetts now trampled upon by Watson Freeman and the callous ruffians, and the liveried flunkies of the Government who have made our Court House a slave pen, and who guard its doors with batons and bayonets? We trow not.

About 10 o'clock, Chas. H. Nichols, Geo. Smith, E. D. Thayer, Wm. Jackson, John Noland, and John Jewell, three of them boys, were arrested for "attempting to create a disturbance." Complaints have been made in the Police Court against the persons arrested last night, and they will be brought up for examination this afternoon.

Between 10 and 11 o'clock the Mayor, attended by Sheriff Eveleth, addressed the crowd from the steps of the Court House. He contradicted the rumor that had been circulated by some that the city authorities would not take any measures to preserve the public peace. On the contrary he said the city authorities are determined to exert every means to prevent rioting. He entreated the crowd to disperse, assuring them that a large force of police and military were on duty, and had peremptory orders to quell all disturbance. In concluding he asked the crowd if they did not wish the reputation of the city maintained.

It will be seen in our report of the examination, that further proceedings before the Commissioner have been postponed to Monday, at 11 o'clock.

MONDAY, MAY 29,

JAMES BATCHELDER.—A *post mortem* examination was had on the body of James Batchelder, Saturday, and the body was subsequently placed at the disposition of his relatives. Funeral ceremonies were held at the late residence of the deceased, in Front street, Charlestown, yesterday afternoon. The physicians who examined the body, state that the wound was caused by a stab and not, as has been stated, by a pistol shot. Coroner Smith concludes an inquest to-day.

The Garrisoned Slave Pen.

One of the papers stated that Boston Court House, Saturday morning, resembled a "beleagured fortress." It should have said "Bastile," or "fortified slave pen." Some of the windows on the west side were broken, and the southwesterly door showed abundant signs of the fierce contest that took place there the night previous. To our readers at a distance it may be interesting to give some description of this building. It is a large oblong structure, strongly built of hewn blocks of granite. It is four stories high above the basement, and the interior consists of rooms, stairways, and narrow passages. Its north end fronts on Court street, from which there are wide spaces on each side of it. Just south of the Court House is the City Hall, which fronts southerly on School street, with a well kept yard before it.

The United States District Court has been permitted to hold its sessions in a room in the second story of the Court House, and, by virtue of this permission the government officials assume or take authority to use the building as a prison and fortress of the slave power. We commend this fact to the sober attention of people of Massachusetts. Does not a law of this State provide that our public buildings shall not be used as jails, by the officials of the general government? And are not our local authorities bound to execute this law?

Large ropes, instead of chains, are now en- ed to fence out the people from the passages the sides of the Court House; and these rop- ricades are guarded by the *Boston Police!!* Court House itself is garrisoned by United troops, some of whom were quartered in the f story and others in the second story, where S day and Sunday they were seen lounging a the windows, and gazing at the crowd in C street. The poor fellow against whose liberty force is marshaled, could now and then be seen Sunday, looking from a third story window on west side, in the room where he is held by the M shal and his aids. Such is one picture of m hunting in Boston.

The military of the city which has been call out by the Mayor, was quartered in the City Ha where they could be seen from the windows yes terday. The documents will explain how the were called into this service :—

COMMONWEALTH OF MASSACHUSETTS.

SUFFOLK, ss. BOSTON, May 26th, 1854.

To Col. Robert Cowdin, commanding the Fifth Regiment of Artillery of Massachusetts Volunteer Militia.

Whereas, it has been made to appear to me, J. V. C. Smith, Mayor of Boston, that there is threatened a tumult, riot and mob of a body of men, acting together by force with intent to offer violence to persons and property, and by force and violence to break and resist the laws of this Commonwealth, in the said County of Suffolk, and that Military Force is necessary to aid the civil authorities in suppressing the same.

Now therefore I command you that you cause two companies of Artillery armed and equipped, and with amunition as the law directs, and with proper officers attached, to be detailed by you to parade at said Boston, on this evening, at their respective armories, then and there to obey such orders as may be given them according to law. Hereof fail not at your peril, and have you there then this warrant with your doings returned thereon. Witness my hand and the seal of the City of Boston, this twenty-sixth day of May, 1854.

J. V. C. SMITH,
Mayor of the City of Boston.

Immediately upon the reception of the above document, Col. Cowdin issued the following order:—

Head Quarters, 5th Reg. Art's 1st Brig., 2nd Div. M. V. M., Boston, May 26, 1854.

In obedience to a requisition from His Honor, J. V. C. Smith, Mayor of Boston, the Captains commanding Companies A and B, of this Regiment, will report with the companies under their command, at City Hall, forthwith, uniformed, armed and equipped as the law directs for special duty, and there await further orders.

Signed, ROBERT COWDIN, Col.

Capts. of Companies A and B.

Head Quarters 5th Reg., 1st Brig., 1st Div. M. V. M., Boston, May 27, 1854.

In obedience to Division and Brigade orders of this date, the commanders of companies composing this Regiment, will cause a detail of four privates, under command of a corporal, to assemble at their Armory, uniformed, armed and equipped as the law directs, for special guard duty, and there wait further orders. Per order,

ROBERT COWDIN, Col.

F. A. HEATH, Adjt.

Subsequently the Mayor issued his precept, similar to the one received by Col. Cowdin, to Maj. Gen. Edmands, and the Independent Cadets and Boston Light Infantry were detailed for du of the same kind.

It will be noticed that they are called out to su press "tumult, riot, and mob" by those who i tend "to break and resist the laws of this Co monwealth," and that they are "to obey su orders as may be given them according to law We should like to know what law of this Comm wealth authorizes or *permits* the Boston polic serve as sentrics for the garrison in that for

slave pen, commonly called "Boston Court House." But here is a brave array of troops, marshals, police, and enlisted creatures of various sorts,—all on duty to crush out the freedom of a poor fellow, whose only crime is a decided repugnance to slavery. The Sunday *Despatch* had the following:—

"It may be a matter of interest to the riotously disposed to know that a force of 10,000 men could not rescue Burns. Every avenue in the Court House bristles with bayonets, and should an attack be made, the air would whirl with bullets. Those who desire one of the sort, had better try a little of the rescue game.

"A despatch was received in this city, Saturday, from Washington, by the U. S. Marshal, directing him to have the fugitive slave trial carried through as promptly as possible, and the law executed to the letter. Also authorizing him to call upon all the United States troops in the vicinity for assistance, and if needed, to send to New York for reinforcements. The Marshal responded that it SHOULD BE DONE!"

"Send to New York for reinforcements!" The whole army and navy will probably be employed to get hold of this man and get him out of Boston. We met some Germans, yesterday, who had been taking a look at the Court House. They were much excited by what they saw, and one of them, pointing to the soldiers, said "and you call this a free country!" One element of the excitement, Saturday evening, is reported by the *Gazette*, as follows:—

It was rumored that the truckmen intended to make a "demonstration" for the especial benefit of Wendell Phillips, William Lloyd Garrison, Rev. Theodore Parker, and Swift, and so general was the rumor and so currently believed, that numerous applications were made to the Mayor to protect the persons and property of people in the vicinity of those houses. During this evening a number of men were seen to approach the dwellings of Messrs. Phillips and Parker and to read the name and number carefully and then to proceed; but up to 12 o'clock there had been no violent demonstration. The Mayor had taken every precaution, having runners or courriers out in every direction who could furnish reliable information from any point in the city in less than five minutes. Capt. W. D. Eaton with 34 of the best men in the department were in readiness to be called into service at a moment's warning, and other men,—a large force were concealed and also ready for action. Suspicious persons were closely watched, but no violence was attempted.

Suttle Refuses to Sell Burns.

Mr. Parker, Suttle's counsel, stated before the Commissioner, Saturday, that he was willing to sell Burns for his fair market value as a slave. Endeavors were accordingly made to rescue the man by paying the claimant's price for him. Suttle agreed to give him up for $1200. This sum was raised immediately; but then he averred that he must also have all the expenses paid; and finally said he was counselled not to give the man up at any rate. We hear that the Commissioner advised him to conclude the arrangement for the sale that had been agreed on, and that Mr. Hallett used his influence to prevent it; and also that Suttle has received a despatch from Virginia, urging him to take the man back at any rate. The gentlemen who sought to buy off the claimant were in consultation on the subject until midnight, Saturday. When the result was known, the following handbill was put in circulation:—

"THE MAN IS NOT BOUGHT!

HE IS STILL IN THE SLAVE PEN IN THE COURT HOUSE.

The kidnapper agreed, both publicly and in writing, to sell him for $1200. The sum was raised by eminent Boston citizens, and offered him. He then claimed more. The bargain was broken. The kidnapper breaks his agreement, though even the United States Commissioner advised him to keep it. *Be on your guard against all lies.* WATCH THE SLAVE PEN. Let every man attend the trial. Remember Monday morning, at 11 o'clock."

We stated, Saturday, that this man hunt in Boston, was deliberately contrived and intended as an outrage to the principles and feelings of men in the free States, to be perpetrated by way of jubilee over the passage of the Nebraska biil. This was said at one of our hotels, Friday evening, by a gentleman from Northern Virginia, and was told to us by the gentleman to whom he said it, and whom he seems to have mistaken for a Southerner. The final refusal to sell the man plainly confirms this statement.

Services at the Music Hall.

There was an immense audience at the Music Hall, yesterday, to hear Rev. Theodore Parker. There was a general expectation that he would have a "Lesson for the Day," and that vast hall, with its double tier of galleries, could not contain all the people who sought admittance. Mr. Parker delivered a short extempore discourse on the subject uppermost in all minds, which we give in full. He then delivered a short discourse on another subject. When he rose to pray he read the following:—

"ANTHONY BURNS, now in prison, and in danger of being sent into slavery, most earnestly asks your prayers, and that of your congregation, that God would remember him in his great distress, and deliver him from this peril.

"From Rev. Mr. Grimes, and Deacon Pitts, at Burns' special request."

He said, in substance, (we can not give his language precisely,) that this was the old form for such requests, but he did not like it. It seemed to ask God to do our duty. God was never backward to do his work, and we should do ours. He could not ask God to work a miracle to deliver Anthony Burns; although if He should see fit to do so it should be accepted with proper sentiments of reverence and gratitude. He had received the same request in another form, which he liked better, and read as follows:—

"*To all the Christian Ministers of the Church of Christ in Boston:*—

Brothers,—I venture humbly to ask an interest in your prayers and those of your congregations, that I may be restored to the natural and inalienable rights with which I am endowed by the creator, and especially to the enjoyment of the blessings of liberty, which, it is said, this government was ordained to secure.

Boston Slave Pen,
May 24, 1854. } ANTHONY BURNS."

The discourse which followed his "Lesson for the Day," was on the war now agitating Europe, and the rapacious and unprincipled spirit of the men who would hurry us into another war to aggrandize the slave power, but he had some allusions to the present state of things in Boston. Here is one of them:—

"Boston is in a state of siege to-day. We are living under military rule, in order that we may serve the spirit of Slavery, and Boston is hunting ground for the South who respects us so much! Our Nicholas is a Virginia kidnapper. Our ruler is a Judge of Probate."

THE PULPIT AND THE SLAVE.—The *Sunday Dispatch* published an extra yesterday afternoon, stating that several clergymen, in view of the present excitement, "denounce slavery and its practices, and sustained the execution of the laws," and named among the number Mr. Kirk. Now it so happens that Mr. Kirk did not preach in Boston yesterday. The young man who supplied his pulpit prayed fervently and preached eloquently against the infamous causes for the imprisonment of poor Burns, now confined in the Suffolk Bastile. The Rev. Mr. Miner also prayed and preached against the infernal Fugitive Slave law. The Rev.

Mr. King, of Hollis Street Church, is charged with having sympathized with the slave catchers. We don't believe the charge. *

KIDNAPPERS' BODY GUARD. — It is reported a company of the lowest and basest men that can be raked from the dregs of the city—bullies, pimps and other "lewd fellows of the baser sort," has been organized to assist the man-hunters in carrying off Burns, when he shall be delivered up to them by the Commissioner. They are supplied with money, rum, &c., and, it is said, evidently feel as great and good as the fugitive slave bill itself, and fit associates for the best and most distinguished of its ministers. Some of this fraternity are now on duty under the Marshal, as special deputies.

A LESSON FOR THE DAY.

DELIVERED AT THE MUSIC HALL, SUNDAY, MAY 28TH, 1854,

BY REV. THEODORE PARKER.

[Phonographic report by Messrs. Slack and Yerrinton.]

I see by the face of each one of you, as well as by the number of all, what is expected of me to-day. A young man, some time since, sent me a request, asking me, can not you extemporize a sermon for this day? It is easier to do than not to do it. But I shall not extemporize a *sermon* for to-day—I shall extemporize *the scripture*. I shall therefore pass by the Bible words, which I designed to read from the Old Testament and the New, and shall take the morning lesson from the circumstances of the past week. The time has not come for me to preach a sermon on the great wrong that is now enacting in this city. The deed is not done; any counsel I have to offer is better given elsewhere than here, at another time than now. Neither you nor I are quite calm enough to-day to look the matter fairly in the face, and see entirely what it means. I had proposed to preach this morning, (before the events of the past week took place,) on the subject of WAR, taking my theme from the present commotions in Europe, which also will reach us, and have already. That will presently be the theme of my morning's sermon. Next Sunday I shall preach on the PERILS INTO WHICH AMERICA IS BROUGHT AT THIS DAY. That is the theme for *next* Sunday: the other is for *to-day*. But before I proceed to that, I have some words to say in place of the Scripture lesson, after the fashion of the Old Testament prophets.

Since last we came together, there has been a MAN STOLEN in this city of our fathers. It is not the first, it may not be the last. He is now in the great slave pen of the city of Boston. He is there, if I understand it aright, against the law of the Commonwealth, which, if am rightly informed, prohibits the use of State edifices as United States jails—I may be mistaken. Any forcible attempt to take him from that BARRACOON of Boston, would be wholly without use. For, besides the holiday soldiers that belong to the city of Boston, and are ready to shoot down their brothers in a just cause, or in an unjust cause, any day when the city government gives them its command and its liquor, I understand there are one hundred and eighty-four marines lodged in the Court House, every man of them furnished with a musket and a bayonet, with his side arms and twenty-four ball cartridges. They are stationed also, in a building very strong, and where five men, in a passage-way half the width of this pulpit, can defend it against five and twenty, or five hundred. To keep the peace, the Mayor, who, the other day, regretted the arrest of our brother, Anthony Burns, and declared that his sympathies were *wholly* with the alleged fugitive—and of course wholly *against* the claimant and the Marshal—in order to keep the peace of the city, the Mayor must become corporal of the guard for the kidnappers. He must keep the peace of our city and defend these guests of Boston over the graves, the unmonumented graves of John Hancock and Samuel Adams.

A man has been killed by violence. Some say he was killed by his own coadjutors. I could easily believe it. There is evidence enough that that they were greatly frightened. These were not United States soldiers, but volunteers from the streets of Boston, who, for their pay went into the Court House to assist in kidnapping a brother man. They, I say, were so cowardly that they could not use the simple cutlasses they had in their hands, but smote right and left, like ignorant and frightened ruffians, as they were. They may have slain their brother for not—I can not tell. It is said by some that they killed him. Another story is that he was killed by a hostile hand from without. Some said by a bullet, some by an axe, and others yet by a knife. As yet nobody knows the facts. But a man has been killed. He was a volunteer in this service. He liked the business of enslaving a man, and has gone to render an account to God for his gratuitous work. Twelve men have been arrested and are now in jail to await their trial for *wilful* murder!

Here, then, is one man butchered, and twelve men brought in peril of their lives. Why is this? Whose fault is it? Some eight years ago, a Boston merchant, by his mercenaries, kidnapped a man between this city and Old Quincy, and carried him off. Boston mechanics, the next day, held up the half-eagles which they received as their pay for kidnapping a man. The matter was brought before the Grand Jury for the County of Suffolk, and abundant evidence was presented, as I understand, but they found "no bill." A wealthy merchant, in the name of trade, had stolen a black man, who, on board a ship, had come to this city, had been seized by the mercenaries of this merchant, kept by them for a while, and then when he escaped, kidnapped a second time in the city of Boston. That was one thing. Boston did not punish the deed; the merchant lost no "personal popularity."

The Fugitive Slave bill was presented to us, and Boston rose up to welcome it. The greatest man in all the North came here, and in this city told Massachusetts she must obey the Fugitive Slave bill "with alacrity"—that we must all "conquer our prejudices" in favor of justice and the unalienable rights of man. Boston "conquered her prejudices" in favor of justice and the unalienable rights of man. Do you not remember the meeting that was held in Faneuil Hall, when a "political soldier of fortune" sometimes called "the Democratic Prince of the Devil," howled at the idea that there was no law of God higher than the Fugitive Slave bill. He sneered and asked, will you have the "Higher Law of God" to rule over you? and the multitude that occupied the floor and the multitude that crowded the galleries howled down the higher law of God! They treated the higher law to a laugh and a howl! That was Tuesday night. It was the Tuesday before Thanksgiving day. On that Thanksgiving day, I told the congregation that the men who howled down the higher law of Almighty God had got Almighty God to settle with; that they had sown the wind and would reap the whirlwind. At the meeting Mr. Choate told the people "REMEMBER! REMEMBER! *Remember!*" Then nobody knew what to "remember." Now you know. That is the state of that case.

Then you "REMEMBER" the kidnappers came here to seize Thomas Sims. Thomas Sims was seized. Nine days he was on trial for more than his life, and never saw a judge—never saw a jury. He was sent back into bondage from the city of Boston. You remember the chains that were put around the court-house; you "REMEMBER" the judges of Massachusetts stooping, crouching, creeping, *crawling* under the chain of slavery, in order to get to their own courts. All these things you "REMEMBER." Boston was non-resistant. She gave her "back to the smiters"—from the South; she "withheld not her cheek"—from the scorn of South Carolina, and welcomed the "spitting" of kidnappers from Georgia and Virginia. Now we are having our pay for it. To-day we have our pay for that conduct. You have not forgotten the "fifteen hundred gentlemen of property and standing," who volunteered to conduct Mr. Sims to slavery,—Marshal Tukey's "gentlemen." They "remember" it. They are sorry enough now. Let us forgive—we need not forget. REMEMBER! REMEMBER! *Remember!*

The Nebraska bill has just now been passed. Who passed it? The fifteen hundred "gentlemen of property and standing" in Boston, who, in 1851, volunteered to carry Thomas Sims into slavery by force of arms. *They* passed the Nebraska bill. If Boston had punished the kidnapper of 1845, there would have been no Fugitive Slave bill

in 1850. If Massachusetts in 1850 had declared the bill should not be executed, the kidnapper would never have shown his face in the streets of Boston. If, failing this, Boston had said, in 1851, "Thomas Sims shall not be carried off, and forcibly or peacefully, by the majesty of the great mass of men, had resisted it, no kidnapper would have come here again. There would have been no Nebraska bill. But to every demand of the slave power Massachusetts has said, "Yes! yes!—we grant it all!" "Agitation must cease!" "Save the Union!"

Southern slavery is an institution that is in earnest. Northern Freedom is an institution that is not in earnest. It was in earnest in '76 and '83. It has not been in earnest since. The Compromises are but provisional. Slavery is the only finality. Now, since the Nebraska bill is passed, an attempt is made to add insult to insult, injury to injury. There was a fugitive slave case at Syracuse this last week; at New York, a brother of Rev. Dr. Pennington, an established clergyman of large reputation, great character, acknowledged learning, who has his diploma from the University of Heidelburg, in Germany,—a more honorable source than that from which any clergyman in Massachusetts ever received his,—*his* brother and two nephews were kidnapped in New York, and without any trial, without any defence, were hurried off into bondage. Then at Boston, you know what was done in the last four days. Behold the consequences of the doctrine that there is no "higher law." Look at Boston, to-day. There are no chains around your court house—there are *ropes* around it. A hundred and eighty-four United States soldiers are there. They are, I am told, mostly foreigners—the scum of the earth, none but such enter into armies, as common soldiers, in a country like ours. I say it with pity—they are not to blame for having been born where they were and *what they are*. I pity the scum as well as I pity the mass of men. The accident of birth kept you and me from being among that same scum. The soldiers are there, I say, and their trade is to kill. Why is this so?

You remember the meeting at Faneuil Hall, last Friday—when even the words of my friend Wendell Phillips, the most eloquent words that get spoken in America, in this century, hardly prevailed upon the multitude from going, and by violence attempting to storm the Court House. What stirred them up? It was the spirit of our fathers—the spirit of justice and liberty in your heart, and in my heart, and in the heart of all of us. Sometimes it gets the better of a man's prudence, especially on occasions like this, and so excited was that assembly of four or five thousand men, that even the words of eloquent Wendell Phillips could hardly restrain them from going at once rashly to the Court House and tearing it to the ground.

Boston is the most peaceful of cities. Why? Because we have commonly had a place that was worth keeping. No city respects laws so much. Because the laws have been made by the people, for the people, and are laws which respect justice. Here is a law which the people would not keep. It is a law of our Southern masters, a law not fit to keep.

Why is Boston in this confusion to-day? The Fugitive Slave bill Commissioner has just now been sowing the wind, that we may reap the whirlwind. The old Fugitive Slave bill Commissioner stands back; he has gone to look after his "personal popularity." But when Commissioner Curtis does not dare appear in this matter, another man comes forward, and for the first time seeks to kidnap his man in the city of Boston. Judge Loring is a man whom I respected and honored. His private life is wholly blameless, so far as I know. He has been, I think, uniformly beloved. His character has entitled him to the esteem of his fellow citizens. I have known him somewhat. I never heard a mean word from him—many good words. He was once the law partner of Horace Mann, and learned humanity of a great teacher—have respected him a good deal. He is a *respectable* man — in the Boston sense of that word, and in a much higher sense: at least, I thought so. He is a kind-hearted, charitable man; a good neighbor; a fast friend—when politics do not interferec; haritable with his purse; an excellent husband; a kind father; a good relative. And I should as soon have expected that venerable man who sits before me, born before your Revolution [SAMUEL MAY]—I should as soon have expected *him* to go and kidnap Robert Morris, or any other of the colored men I see around me, as I should have expected Judge Loring to do this thing. But he has sown the wind, and we are reaping the whirlwind. I need not say what I now think of him. He is to act to-morrow, and may yet act like a man. Let us wait and see. Perhaps there is manhood in him yet. But, my friends, all this confusion is *his* work. He knew he was *stealing a man*, born with the same right to life, liberty and the pursuit of happiness as himself. He knew the slaveholders had no more right to Anthony Burns than to his own daughter. He knew the consequences of stealing a man in Boston. He knew that there are men in Boston who have not yet conquered their prejudices—men who respect the Higher Law of God. He knew there would be a meeting at Faneuil Hall—gatherings in the street. He knew there would be violence.

EDWARD GREELEY LORING, Judge of Probate for the County of Suffolk, in the State of Massachusetts, Fugitive Slave Bill Commissioner of the United States, before these citizens of Boston, on Ascension Sunday, assembled to worship God, I charge you with the death of that man who was murdered on last Friday night. He was your fellow servant in kidnapping. He dies at your hand. You fired the shot which makes his wife a widow, his child an orphan. I charge you with the peril of twelve men, arrested for murder and on trial for their lives; I charge you with filling the Court House with one hundred and eighty-four hired ruffians of the United States, and alarming not only this city for her liberties that are in peril, but stirring up the whole Commonwealth of Massachusetts with indignation, which no man knows how to stop—which no man can stop. You have done it all!

This is my lesson for the day.

Services at the Music Hall.

There was an immense audience at the Music Hall, yesterday, to hear Rev. Theodore Parker. There was a general expectation that he would have a "Lesson for the Day," and that vast hall, with its double tier of galleries, could not contain all the people who sought admittance. Mr. Parker delivered a short extempore discourse on the subject uppermost in all minds, which we give in full. He then delivered a short discourse on another subject. When he rose to pray he read the following:—

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"From Rev. Mr. Grimes, and Deacon Pitts, at Burns' special request."

He said, in substance, (we can not give his language precisely,) that this was the old form for such requests, but he did not like it. It seemed to ask God to do our duty. God was never backward to do his work, and we should do ours. He could not ask God to work a miracle to deliver Anthony Burns; although if He should see fit to do so it should be accepted with proper sentiments of reverence and gratitude. He had received the same request in another form, which he liked better, and read as follows:—

"*To all the Christian Ministers of the Church of Christ in Boston:*—

Brothers,—I venture humbly to ask an interest in your prayers and those of your congregations, that I may be restored to the natural and inalienable rights with which I am endowed by the creator, and especially to the enjoyment of the blessings of liberty, which, it is said, this government was ordained to secure.

Boston Slave Pen,
May 24, 1854. } ANTHONY BURNS."

The discourse which followed his "Lesson for the Day," was on the war now agitating Europe, and the rapacious and unprincipled spirit of the men who would hurry us into another war to aggrandize the slave power, but he had some allusions to the present state of things in Boston. Here is one of them:

Boston Journal.

MONDAY EVENING, MAY 29, 1854.

☞ Handbills have been widely circulated and posted up in the various towns in the vicinity of Boston, and in Lynn, Salem, Worcester and other distant places, inviting "the yeomanry of New England" to come in by the early trains to Boston on Monday, and rally in Court Square, to "lend the moral weight of your presence and the aid of your counsel, to the friends of justice and humanity in the city." Many unthinking persons have responded to this appeal and are in Court Square, helping to swell the mob which has there gathered. We do not know that any further unlawful attempt is to be made to rescue the fugitive Burns. We hope that the bloodshed of Friday night and the opportunity which has since been afforded for deliberate reflection, has calmed the heated passions of those who have incited to riot, and that wiser counsels now prevail. But if our hopes should prove unfounded—if the sanguinary counsels of the speakers in Faneuil Hall are to be acted upon by their deluded followers—we would most earnestly appeal to every good citizen—every friend of order and every one who respects the laws—to keep away from Court Square. Remember that those who are drawn together by curiosity do indeed "lend the moral weight of their presence" to deeds of lawless violence.—Remember that any attempt to rescue Burns by forcible means is hopeless. He is surrounded by a wall of bristling bayonets and of guns loaded with powder and ball. Not only the United States troops, but the citizen soldiery, will do their duty. An attack upon the officers of the law, supported by such a force, would be not only profitless but foolhardy, and the consequences would inevitably be deplorable.

We say, most earnestly, to those who are attracted by mere curiosity and who do not sympathise with the law-breakers, that if bloodshed occurs you may be the first victims, and if you escape, to the extent that your presence gives encouragement to the evil disposed *you will be accessory to the death of those who fall.* We repeat,—*let every good citizen go quietly about his business, and leave the avenues leading to the Court House to the evil disposed and riotous.*

"Edward Greeley Loring, Judge of Probate for the County of Suffolk, in the State of Massachusetts, Fugitive Slave Bill Commissioner of the United States, before these citizens of Boston, on Ascension Sunday, assembled to worship God, I charge you with the death of that man who was murdered on last Friday night.—He was your fellow servant in kidnapping. He dies at your hand. You fired the shot which makes his wife a widow, his child an orphan."

The above we extract from a report of the inflammatory *sermon* (!) delivered by the Rev. Theodore Parker yesterday, before his congregation in the new Music Hall. Let us see where rests the responsibility, before God and man, for this murder. In one position we probably agree with Mr. Parker. It was not the person who, in a moment of intense excitement, inflicted the fatal stab upon the person of James Batchelder, who is responsible for this deed. *But it is the men who artfully inflamed his passions and then left him to their uncontrolled exercise.* It is they alone who are GUILTY of MURDER, and they alone who—here or hereafter—must answer for the unhallowed deed. The law may not be able to reach them, but public opinion will, and their own consciences—when they find time to listen to them—will say to each and every one of them, when the question is asked "who is guilty of murder?"—"*Thou art the man.*"

There was not a man on the rostrum of Faneuil Hall on Friday evening, whose hands are not dyed in the blood of James Bachelder, but if any one is more guilty than another, it is the Rev. Theodore Parker, for it was he who put the motion to adjourn to Court square. They may all thank Heaven that his is the only life they have to answer for. We trust that this sad tragedy may be a serious warning to these agitators, and that those who are in the habit of listening to, and of being excited by their inflammatory railings, will at least follow the example which they set them on Friday night, of *retiring quietly to bed* after their speeches were over, instead of joining the mob they had incited to deeds of violence.

☞ We are requested to state that the report that George T. Curtis, Esq. has declined to act as United States Commissioner in cases arising under the act for the surrender of fugitives, is without foundation. He has not resigned the office of United States Commissioner, and will shrink from the performance of no duty which is required of him by the laws of the land, which he has sworn to support.

We are happy to announce that there has been no repetition of the scenes of violence enacted on Friday evening, at the Court House. The firmness of the authorities, together with the presence of a large body of military, has sufficed to keep the riotously disposed in order, and although hosts of people have been at all times in the vicinity of Court square, there has been no outbreak. Our reporters furnish us with the following record of facts and incidents connected with the affair since our issue of Saturday evening.

The Latest Particulars—Arrests, Incidents, &c.

Throughout Saturday afternoon great excitement prevailed in Court Square, the crowd numbering several thousands, although about 4 o'clock the number was evidently less than at any other period.

John C. Cluer was arrested in Court street, near the Court House, about 3 o'clock Saturday afternoon, by Constable Spoor, on a warrant from the Police Court, charging him, with ten others, with the murder of James Batchelder, and was committed to jail to await an examination, which will probably take place tomorrow. John Morrison was also arrested and committed on the same charge. These, we believe, make eleven of the rioters who are charged with the murder.

Saturday forenoon, a middle aged woman, named Hinckley, well dressed in black, and of very reputable demeanor, posted herself near the easterly entrance of the Court House, and demanded admission, but the officers on duty politely refused compliance with her demand. She continued to maintain her position for two or three hours, demanding admission, but all to no purpose. The officers declared this to be the most persevering and remarkable case of feminine curiosity which had ever fallen under their observation. Having exhausted her vocabulary of argument, and finding there was "no use in knocking at the door," she quietly left the Square.

As Mr. William C. Fay was conversing in the Square with a friend, about half past five o'clock Saturday, P. M., a stalwart colored man named Nelson Hopewell, (who by his previous actions had attracted the attention of the officers) interfered, and aimed a blow at Mr. Fay. Officer Tarleton instantly seized Hopewell, and a violent tussle ensued for a moment, when both fell to the ground. Officers J. H. Riley, Cheswell, and Rogers, came to the rescue, and Hopewell was hurried to the watch house, Mr. Tarleton retaining his hold of him throughout. Hopewell had a belt around his body, and attached to the belt, was a leather sheath which held an African knife, called a *creese*, the blade to which is some ten inches long, curved and slender, and bore upon it distinct stains of blood.

It appears from the *post mortem* examination of the body of the unfortunate Batchelder, that he was *not* killed by a pistol shot, but that the mortal wound was inflicted by a long and sharp instrument, near the groin, penetrating the body six or seven inches, and severing the main arteries. The *creese* is capable of inflicting just such a wound as Mr. Batchelder received, but there is no testimony yet made known which connects Hopewell with the outrage of Friday night.

ries.

About half past seven o'clock Saturday evening, Chief of Police Taylor, and Deputy Chief Ham, with a strong force of officers, commenced clearing the Square, and very shortly, and without disturbance, the work was accomplished. Ropes were stretched across each avenue leading to the square, and officers were stationed to prevent all persons excepting such as had special business within the square, from passing inside of the lines. Many who had composed the crowd gradually withdrew, and at half past ten o'clock, P. M., but a few hundred persons remained in the vicinity, and many of these were colored people of both sexes, but at a later hour they also retired peaceably to their homes.

Mayor Smith remained at City Hall during the fore part of Saturday night, superintending the measures adopted to preserve the peace.

The Chief of Police and his Deputy, together with their under officers, have, through the whole affair, thus far, been unceasing in their arduous duties, and have proved themselves men of nerve and officers of determination in the faithful and prompt discharge of their duties. The whole Police Department were on duty through the night, ready for any emergency. Saturday evening, Lewis Osgood, Thomas Farretty, James Bellows, (upon whom was found a dirk knife), Joseph Brown, James Cunningham and Charles H. Crickney were arrested for riotous conduct in front of the Court House, and were committed to jail. Since nine o'clock on Friday and up to 12 o'clock on Saturday night, fifty persons were arrested and placed in the centre watch-house, and with few exceptions, the arrests were made for riotous and disorderly conduct about the Court House. Seventeen of those arrested were committed to jail—the others being discharged after a short imprisonment.

Owing to a report which gained currency on Saturday afternoon, to the effect that an attack was to be made that evening on the residences of Theodore Parker, 1 Essex place, and Wendell Phillips, 26 Essex st., quite a number of persons, probably from motives of curiosity, slowly passed and re-passed Essex street during the evening until a late hour, but no attempt was made at a breach of the peace. This is but one of the many groundless rumors which have prevailed since Saturday noon.

Between 12 and one o'clock on Saturday night, as a carriage containing Hon. B. F. Hallett and his son Henry L. Hallett, was passing up School street, two colored men were observed following and closely watching it. They soon hailed the driver, and the carriage was stopped. Deputy Chief Ham and officer Pritchard were close at hand, and upon being observed by the negroes, the latter took to their heels. The Messrs. Hallett alighted from the carriage, and were accompanied home by Deputy Ham, while officer Pritchard gave chase to the negroes, and succeeded in arresting one of them, but he was subsequently discharged from custody. The man gave his name as James Palm.

U. S. Marshal Freeman has received a telegraphic despatch from the President of the United States, to the effect that he (the Marshal) had performed his duty, and instructing him to continue so to do.

Proposal to obtain Burns's Freedom.

The following is a copy of a document which was drawn up in the office of U. S. Commissioner Loring on Saturday evening, and subscribed to by several prominent merchants and other citizens:—

BOSTON, May 27th, 1854.

"We, the undersigned, agree to pay Anthony Burns, or order, the sum set against our respective names, for the purpose of enabling him to obtain his freedom from the United States Government, in the hands of whose officers he is now held as a slave."

Some of the subscribers signed the document only on condition that the bargain should be fully consummated that night. Mr. Suttle, the owner of Burns, had previously agreed to accept the sum of $1200 in cash as the price of Burns, on condition that some matters relative to the costs appertaining to the case should be adjusted between the signers and the U. S. Marshal that night, and also that the money should be paid to him that night before the hour of twelve o'clock. So far the parties were agreed, but twelve o'clock came round and the conditions were not complied with.

It is stated that Mr. Suttle was offered two checks for the amount, but declined accepting them, for the reason that the matter relative to the costs had not been arranged with the marshal by the signers, and that he had no assurance that the payment of the checks would not be stopped before the opening of the banks this morning; and further, he had no guarantee that he should not be troubled with further arrests. As the matter now stands, Mr. Suttle considers the negotiation, so far as it was made on Saturday evening, entirely null and void.

Court Square was kept clear of any crowd yesterday, the Police maintaining the lines at each avenue leading thereto. Throughout the day, several hundred persons were collected in Court street in front of the Court House, and at times there were scarcely two hundred persons within sight of the Square. At nightfall, those that had had their curiosity fully gratified, left the scene, and at nine o'clock but very few remained, and an hour later, most of those had gone to their homes. No arrests for breach of the peace or disturbance of any kind in the vicinity of the Square were made during the day.

The Union Guards remained at City Hall through last night, and the two other companies attached to the 3d Battalion Light Infantry, Maj. Burbank—the National Guard and the Sarsfield Guard—were under arms last night at their armories. This morning these three companies will be relieved by three others from the 1st Regiment Light Infantry.

At a late hour last night all was quiet.

Many, and we presume all, of the clergymen, referred to the unusual excitement in the city in their prayers yesterday, supplicating the Divine blessing upon the fugitive Burns, not forgetting him who met his death in the discharge of his duty.

All was quiet in the vicinity of the Court House throughout last night, and has remained comparatively so this forenoon, no arrests for disorderly conduct or other offences having been made.

The woman, Hinckley, who we have already noticed, re-appeared this morning and urged in vain her right to admission inside of the Court House. She left apparently disgusted with the officers.

At about noon considerable cheering was heard in Court Square. It proved to have been occasioned by the arrival of a band of men, numbering perhaps 200, bearing a banner on which was inscribed "Worcester Freedom Club." They marched up Court street, into Court Square, and around the Court House, and from thence toward the west part of the city. It was a mixed club, many of the number being colored individuals, and some of them must have found themselves in strange company. A few moments after they left the Square, all was as quiet as previous to their appearance.

About one o'clock this afternoon a "gentleman from the country," as he termed himself, was arrested in front of the Court House and taken to Police Station No 1, Williams' Court. He had imbibed so freely of intoxicating drink, as to be unable to take care of himself, so the Police kindly placed him where he could become sober.

We understand that the Bay State Club have tendered the U. S. Marshal 1500 men, to enforce the law.

A meeting composed principally of individuals from the country, is now (1½ o'clock P. M.) in session in Meonaon Hall, over which Dr. — Mitchell, of Worcester, is presiding.

Wm. Lloyd Garrison and others of similar stamp have made inflammatory addresses. A Mr. Hanscom, who created such an excitement in New Bedford a year or two ago, stated that a writ of replevin, or habeas corpus, to take the fugitive Burns out of the custody of the U. S. Marshal, had been placed in the hands of one of the Coroners of Suffolk, who would serve it, provided he could obtain sufficient force to aid him.

The Speaker was evidently much excited, and called for volunteers to aid the said Coroner. A large number of the persons present signified their willingness by rising from their seats, but subsequently, when Mr. Hanscom called upon them to "walk up to the rostrum and enroll their names," very few obeyed the call.

Mr. Hanscom also intimated that a select and secret Committee was in secret session in an ante-room, but declined giving the names of the Committee, when publicly requested so to do.

Cheers were given for various individuals, among whom was his Excellency Gov. Washburn, for whom six cheers were given, upon the assurance from the Chairman that that functionary was with them in spirit and sentiment.

At 2 o'clock this afternoon, all remained quiet about the Court House, although the crowd numbers some thousands.

Daily Evening Traveller.

BOSTON:
MONDAY, MAY 29, 1854.

THE FUGITIVE SLAVE EXCITEMENT.—We have endeavored to lay before our readers a true and faithful account of the events which have occurred here within the last three days, connected with the arrest and examination of an alleged fugitive from slavery, named Anthony Burns. The popular excitement still continues; and at the present moment, as the examination is progressing, a dense crowd is gathered about the Court House, actuated chiefly, as we presume, by motives of curiosity, but in respect to many, no doubt, by a desire, and a determination if circumstances should favor it, to resist even by violence the operation of the law. It is observed that many—perhaps the larger portion—of this crowd are strangers. While our own citizens, as a general thing are properly engaged in their customary avocations, means have been taken elsewhere, and particularly in Worcester, to induce people to lay aside their business and come to the city, to add fuel to the flame of excitement here. Meanwhile, the U. States and the city authorities have taken such steps as it is to be hoped will check any further violence. The U. States armed forces which have been called in, are to aid directly in the execution of the law. The precautionary measures taken by the city authorities are to preserve the peace of the city, by whomsoever it may be disturbed. In addition to the ordinary police, a military force, under the direction of Maj. Gen. Edmands, will be available for prompt and efficient service, if unfortunately such service should be needed. — Cheated as we have been by the South, and grating as is the duty of acquiescense in this odious law, we earnestly hope that no violence will attend its execution.

It is not by lawless violence and bloodshed that we can manifest the deep indignation which pervades the public mind, at the recent act of treachery on the part of the South, in repudiating their part of a solemn compromise, and in leaving us to fulfil, at the hazard of our own honor, the hateful agreement to which we had bound ourselves in the vain hope of a final adjustment of the threatening controversies between the free and slaveholding States. Let us rather set an example, not only of faithfulness and honor, but of submission to an offensive compact, and reserve all the energies of an insulted and disgusted public sentiment for a lawful and constitutional demonstration, such as shall convince the South that there is a point of forbearance beyond which we cannot go.

The Boston City Grays, Capt. French, are quartered at the City Hall; they will be relieved to-night by another of our city military companies. The U. S. Marines, from the Navy Yard, and one company of U. S. Artillery, from Fort Independence, are also quartered in the Court House.

The excitement outside continued this morning, although the crowd was not large until 11 o'clock.

Among the rumors of the morning was one that several car loads of persons had came down from points on the Worcester railroad to take part in the proceedings. There was also another, that 1,500 members of a prominent club in this city had volunteered their services to aid in the preservation of order and the execution of the laws. Also, that threats of personal violence to several of the officers had been made by certain persons, going so far as an intimation that one of the officers who arrested the fugitive would be shot before night.

THE PRESIDENT AND THE BOSTON TROUBLES.—The Washington Union of Sunday, has a long article from which we make some extracts:—

The following despatch, received in this city yesterday morning about 12 o'clock, tells the story:—

"In consequence of an attack upon the court-house last night, for the purpose of rescuing a fugitive slave under arrest, and in which one of my own guards was killed, I have availed myself of the resources of the United States, placed under my control by letter from the War and Navy Departments in 1851, and now have two companies of troops, from Fort Independence, stationed in the court-house. Everything is now quiet. The attack was repulsed by my own guard. "WATSON FREEMAN,
"U. S. Marshal, Boston, Mass."

In reply to this message, President Pierce, with characteristic promptitude, returned to Marshal Freeman the following emphatic answer:—

"YOUR CONDUCT IS APPROVED. THE LAW MUST BE EXECUTED."

At whatever hazard, and in the face of every consequence, the law of the land will be "executed and enforced." The present Chief Magistrate knows his duty, and will discharge it, no matter how assailed or threatened. He was elected to the high position he holds as the avowed, positive, and fearless advocate of the constitution, and as the known friend of the rights of the States; and he took his seat in the Presidential chair proclaiming his cordial approval of the Compromise measures of 1850, and his fixed resolution to execute and enforce the fugitive-slave law in the following language.

[After a quotation from the address, the Union continues:—]

This unequivocal and comprehensive avowal of the purposes of President Pierce was hailed, from one end of the country to the other, as a practical guarantee that however fanaticism might rail and treason plot, the strong and steady spirit, and the unflinching and patriotic will of that statesman, would be honestly and vigilantly exerted on the side of the Constitution. Boston was among the first to applaud this emphatic declaration, and we believe, however bad impulses and tainted counsels may at present mislead the people of that city, they will come back to their duty before their streets are made the scene of the massacre anticipated and prayed for by Sumner and his confederates. But whether they do or do not, of one thing the country may be assured—there will be no faltering in Franklin Pierce. THE LAWS WILL BE MAINTAINED AT WHATEVER COST.

THE FUGITIVE SLAVE CASE.—We understand that Hon. John H. Clifford, Attorney General, yesterday received a telegraphic despatch offering him a retainer in behalf of Burns, the fugitive slave in Boston. The offer came from several leading Whig merchants of Boston. Mr. Clifford was reluctantly compelled to decline the retainer in consequence of a press of official business. He commences the trial of a capital case in Springfield this afternoon, having just concluded the trial of the case of Wilson in Boston.—[New Bedford Mercury.

THE BOSTON PRESS.—The *Atlas* has not yet said a word, editorially, in relation to the last demonstration of the slaveholders against the North. The *Advertiser*, while condemning violence, has some sensible and judicious remarks upon the course of the slaveholders in repealing the Missouri Compromise. The *Transcript* also, while upholding the peace of the city, has some very feeling remarks upon the dangers of the present crisis, to the Northern people. The *Courier* is characteristically violent, and the *Journal* is characteristically feeble—both on the side of the slaveholders. The *Post* and *Times* say—what their drivers at Washington tell them to say.

EVENING GAZETTE.

Boston: Saturday Evening, May 27, 1854.

A DETAILED ACCOUNT

OF THE

Arrest of Anthony Burns,

THE ALLEGED FUGITIVE SLAVE.

The Faneuil Hall Meeting.

THE ATTEMPTED RESCUE.

Murder of Mr. Batchelder.

THE MILITARY UNDER ARMS.

Efficiency of the Police, with Items of Interest relating to the Affair.

Following upon the very heels of the Nebraska Bill, we have had, in this city, the arrest of a fugitive slave. At any time an occurrence like this would cause a great excitement, but at this particular moment, when even the warm friends and upholders of the Fugitive Slave Law have turned away, resolved no longer to grant concessions to those who violate previous compacts, and seek to extend slavery over free territories, it has caused the most intense interest, and has resulted in scenes of violence and bloodshed.

THE ARREST.

On Wednesday evening last, about 8 o'clock, Anthony Burns, colored, while walking in Court street, was taken into custody by officers Coolidge, Riley, and Laighton, under the orders of Watson Freeman, U. S. Marshal, and by virtue of a warrant issued by U. S. Commissioner Edward G. Loring authorizing the arrest of Burns, as an alleged fugitive from the "service and labor" of Charles F. Suttle, a merchant of Alexandria, Va. The arrest was made very quietly, and he was escorted to an upper room in the Court House, where, under a strong guard of officers, he was kept for the night, and the intelligence of his arrest did not transpire until the following morning.

Burns, who is about thirty years old, has for some time been in the employ of Coffin Pitts, clothing dealer, No. 36 Brattle street. He is a shrewd fellow, and his story of the manner of his leaving Alexandria is curious. After acquitting his master of all suspicion of cruelty, he stated that leaving him was the result of accidents—that one day, while tired, he laid down on board a vessel to rest, got asleep, and that during his slumbers the vessel sailed! Burns, at one time after his arrest, expressed a willingness to return with his master, but he was induced by his advisers to make his claimants show their authority for his return.

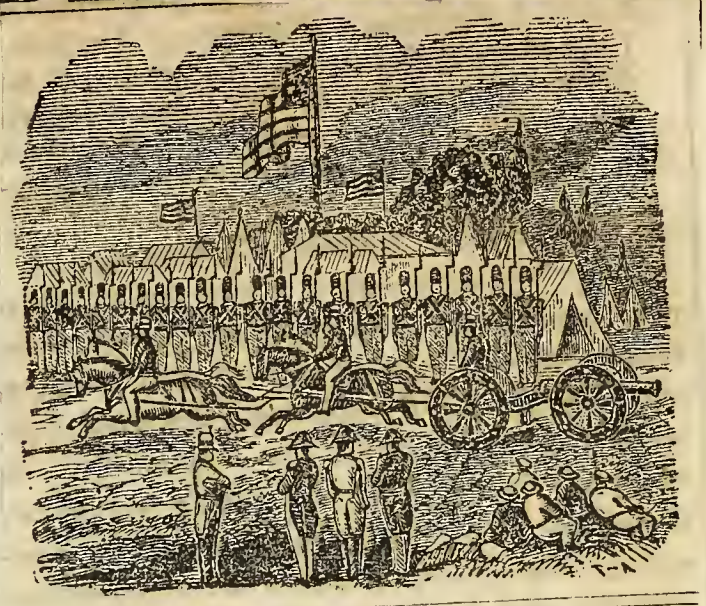
ATTEMPTED ARREST OF SUTTLE.

During the forenoon, a writ was issued by Seth Webb, Esq., on an action of tort, for the recovery of $10,000 damages against Messrs. Charles F. Suttle and William Brent, "for, that the said Tuttle and Brent on the 24th day of May instant, well knowing the said Burns to be a free citizen of Massachusetts, conspired together to have the said Burns arrested and imprisoned as a slave of said Suttle, and carried to Alexandria, Va.," &c, &c.—Lewis Hayden, a colored man, was the complainant in the case. The writ was served upon Messrs. Suttle and Brent, and they gave the required bail in the sum of $5,000 each. Subsequently, Chief Justice Wells issued a writ of replevin against U. S. Marshal Freeman, directing that officer to bring the body of Anthony Burns, the fugitive, before the Court of Common Pleas, on the 7th day of June next, but the Marshal did not obey the order.

HOW BURN'S WAS DISCOVERED.

Soon after Burns' arrival here, as it now appears, he wrote a letter to his brother in Alexandria, who is also a slave of Mr. Suttle's, stating that he was at work with Coffin Pitts, in Brattle street, cleaning old clothes. This letter he dated in "Boston," but sent it to Canada, where it was post-marked and send according to the superscription, to Burns' brother in Alexandria. As is the custom at the South, when letters are received directed to slaves, they are delivered to the owner of such slaves, who opens them and examines their contents. This appears to have been the case with Burns' letter, and by his own hand his place of re-treat was discovered by his master.

DISPATCH.



Faithful and Fearless.

BOSTON, SUNDAY, MAY 28, 1854.

THE RIOT.---MILITARY VIEW OF IT.

Our city was, on Friday evening, threatened with a very serious riot, full particulars of which are given elsewhere. Our citizen soldiery were called upon, and responded with their usual promptitude, as all who are not wilfully blind knew they would, and as all whose opinions are worth considering believe they always will. Evil disposed persons have been circulating a report that the Columbian Artillery and other companies volunteered their services to protect the Court House, and have thereby tried to excite popular feeling against them. No credit should be given to such statements; they are false IN TOTO. The military were legally ORDERED OUT from the first, and they showed themselves to be good soldiers by obeying the orders promptly and to the letter. As soon as it was ascertained that an outbreak was likely to occur, Mayor Smith issued his precept as follows:

Thus our readers will see that every thing has been done legally and "according to the book." All honor to the defenders of law.

Governor Washburn will make one of the addresses before the Massachusetts Bible Society, tomorrow, Monday afternoon, at Central Church.

A rumor was circulated through the city, last evening, that a conspiracy has been planned, for the purpose of rescuing Burns, the fugitive slave. The means are FIRE AND THE SWORD. We think it will be a difficult matter to put it in force.

Nearly all the clergymen in the city preached discourses in reference to the present excitement. The majority, while they denounced slavery and its practices, also sustained the execution of the laws. The sermons of Rev. Messrs. Lothrop, King, Kirk, Peabody, Robbins, Blagden, Eastburn, and Vinton were especially eloquent.

At the West End the colored people have just held a secret meeting, and passed, it is said, a series of resolutions to liberate Burns, at all events. A document was read from Whittier, the poet, at Amherst, tendering any aid, by money or muscle, to this end.

DAILY ADVERTISER.

BOSTON:

MONDAY MORNING, MAY 29, 1854.

First Page.—Commercial Record—Fraudulent Pension Claims—Robbery of the Philadelphia Mint—Revolutionary Trophies—The Largest Slave Owner—Lieut. Bonaparte—Weekly Report of Interments.

The late Popular Excitement.—The events of the last three days in this city have tended to confirm the conviction previousiy entertained by almost every reflecting man, of the extreme danger to the repose of the country, of the recent interference with the Compromise act of 1820. The bill for its repeal was introduced into the Senate by Mr. Douglas, under the pretext that it was repealed by implication, although not in express terms by the Compromise acts of 1850. No historical fact is more clearly established than that the whole discussion on the acts of 1850, in Congress, and by the press, was conducted without any reference to the Compromise act of 1820, and nothing can be clearer than that if it had been understood that this act was to be repealed, the fugitive slave law of 1850 would never have been passed.

It was also clearly understood that the portion of the people of the free States who gave their aid to the adoption of those laws, and without whose aid they could not have been passed, did so in the faith that the arrangement of the entire slavery question, as then made, was to be a final settlement, as between the free and slaveholding States. It is not surprising, therefore, that such a breach of faith as has been consummated by the passage of the Nebraska bill,—by which the door has been opened for the admission of slavery into a territory of immense extent, in violation of an express compact that slavery should be forever prohibited therein, has produced a severe shock upon the feelings of the whole community throughout the free States. Attempts were made to persuade the people of the South of the extreme imprudence and folly, on their part, of seizing upon an accidental state of parties for carrying a measure so offensive to the whole North, as the repeal of the Missouri Compromise, but they were deaf to all admonition and have succeeded in carrying a measure of which we are to reap the fruits.

The consequences are beginning to develope themselves already. The difficulty which has always existed in enforcing the execution of the fugitive slave law, is greatly increased by this exasperation of the public feeling.

Many persons who have hitherto used their utmost exertions, and hazarded their influence in carrying into effect the Compromise measures, on the footing on which they understood them to stand, are entirely disgusted and disheartened, in finding themselves placed in the unexpected position of being held to a compromise, which is binding on but one side. We are not, however, aware that the number of those who are disposed to violate the laws of the land, or to be guilty of a breach of the peace, is increased by this violation of faith by the representatives of the South; but it cannot surprise any one, that such an act should diminish the ardor of some men in enforcing an odious law, enacted for the exclusive benefit of those who have made so ungracious a return for it. We have no doubt, notwithstanding, that those who are entrusted with the execution of the laws will faithfully discharge their duty, and that they will have the effective aid of all good citizens, if it should become necessary. It is due to the character of the City and of the State, as well as to our individual characters as citizens, that the laws should be executed, and that all attempts to resist them should be effectually put down and punished. Those who resist the law now, and those who encourage resistance by their countenance and advice, are the same persons who have promoted and counselled such measures heretofore. We do not suppose that the violators of the law have gained any great number of recruits in consequence of the repeal of the Missouri Compromise. This act affords no justification for the resistance of laws actually existing. The effects of that repeal must be counteracted in some other way, and we doubt not the South will find in the end that they have gained nothing by their present move.

In the meantime we trust that no attempt will be made to resist the carrying into effect the decision of the Commissioner, whatever it may be, and over that decision he has no control whatever, other than to decide according to his own judgment and conscienee upon the evidence in the case. It is understood that an arrangement is already made, which we have no doubt will be carried into effect, for the purchase of the fugitive by the payment of a price satisfactory to his master, contributed by a number of liberal individuals, for the purpose of setting him at liberty. This will of course quiet all further excitement. If it were otherwise, we have no doubt that the decision of the Commissioner would be quietly submitted to, and peaceably carried into execution.

It was understood on Saturday evening, that the fugitive might be purchased for twelve hundred dollars, and that sum was readily subscribed for the purpose. It was expected that the necessary papers might be drawn up that night, and the object thus immediately effected; but while the gentlemen engaged in this philanthropic proceeding were maturing the papers, the hour of twelve o'clock arrived, and they were obliged to cease as no proceedings had upon Sunday would have binding legal force. Proceedings will be resumed at an early hour this morning, and we confidently trust that by the time our subscribers read this paragraph, or very shortly afterwards, *Burns will be free*—freed from the service

which it can scarcely be doubted he owes his master, by the philanthropic liberality of enlightened citizens and not by the violence of the indiscreet. The money is all ready in gold.

Two incidents connected with the subscription are worth mentioning. On Saturday evening, eight hundred dollars had been subscribed; it was thought important that the remainder should be obtained at once in the hope of consummating the measure that evening. One of our liberal merchants whose benevolence is practical and unostentatious, although he had already subscribed a hundred dollars, immediately advanced the requisite four hundred dollars and completed the subscription. That is the one incident. The other is this:—We are informed that during the day on Saturday, Rev. Theodore Parker was asked if he wished to put his name to the subscription paper. His reply was "*I have nothing to subscribe but brains and bullets!*"

A paragraph has appeared in one of the Sunday papers containing statements in connection with the names of Messrs. Thomas B. Curtis and W. W. Greenough, which require correction. They were not appointed to negotiate the purchase of Burns, but were desirous, for obvious reasons, that he should be liberated before midnight on Saturday. They have never had or sought any interview with Colonel Suttle. The delay which occurred with regard to the purchase of Burns, &c., was understood to have arisen from questions of legal costs; nor is it within the knowledge of Messrs. Curtis and Greenough that any officer of the United States government was disposed to defeat the negotiation.

We are authorized to state that the story that the subscription paper for the purchase of Burns was drawn up in the office of Judge Loring on Saturday night is without foundation. Judge Loring has no knowledge of any such document.

The negotiation for the purchase has not been completed. Nothing could be legally done on Sunday. At a late hour last night it was feared that it might not be consummated before the hearing today. We confidently hope that these fears may prove unfounded.

We understand that the Marshal has been advised from Washington that the expenses incurred in protecting his prisoner are not to be assessed upon the claimant. The whole amount of the costs in the case cannot thus exceed one or two hundred dollars, which we have no doubt will cheerfully and readily be subscribed, if required, in addition to the twelve hundred dollars already raised.

It was rumored however last night that the claimant had said that no money would now buy the slave: and it was further rumored that he had been advised from Virginia that he (Col. Suttle,) would incur the displeasure of his fellow citizens there if he returned without his slave. We hesitate to credit these rumors. Sales of slaves are certainly not such unusual occurrences in Virginia that a case of a sale like the present need be visited with public disapprobation there.

The vicinity of the Court House was quiet last night, and there was no large crowd, though many persons passed through Court street, and occasionally small knots collected. The ropes which were stretched on Saturday evening, guarded by policemen, to prevent the passage of persons through Court Square, except on business, were maintained throughout the night; and yesterday, day and night.

Reported for the Traveller.

Meeting of Clergymen Regarding the Interests of Freedom.

At a meeting of the American Tract Society, last evening, notice was given of a meeting at 9 o'clock this morning, of the above-named character. It was large, and continued in session for more than two hours.

Dr. Barstow, of Keene, N. H., was appointed Chairman, and J. W. Walker, Secretary.

H. M. Dexter, of Boston, who had taken the responsibility of calling the meeting, stated the object to be to consult together in reference to duty in the present emergency.

Dr. Lyman Beecher said, we have no cause to fear, and that fear would be treason. We must pray, hope and work. In the Revolution, the government and the clergy were united; but now, the government is on one side and the clergy on the other.

Prof. Stowe said, in reference to a suggestion that a Convention be called, that now was the time to *act*, rather than issue such a call; but that we should do it calmly. There is now a disposition on the part of all the friends of freedom to unite, and let by-gones be by-gones.

Dr. Edward Beecher moved that a committee be appointed to confer with the clergy of other denominations, in regard to the religious and the political bearings of this subject, and our duty. Regarding the first, our way is clear; but as to the other, it is not so.

The meeting voted to adopt the five minutes' rule for the speakers.

George Allen of Worcester, thought that now is the time for action; but we must act with consideration.

R. W. Clark of East Boston, was decidedly of the opinion that we should act religiously only.

Mr. Wolcott of Providence, said he did not agree with his brother of Boston, that the religious and political considerations should be separated. He moved an amendment to Dr. Beecher's motion, in the form of a resolution contemplating immediate action.

Dr. Cleveland of Northampton, sustained the last speaker in his position regarding immediate action; and the motion and amendment were referred to a committee of seven, of which Dr. C. was chairman, to consider and report to the meeting. This committee, after a long absence, came in and reported that, as the recent action of Congress had made a new crisis, threatening the vital interests of freedom, it was, in their opinion, expedient that the clergy of this Commonwealth meet in Convention, to consult and determine their duty in this exigency; and that a committee of twelve be appointed to confer with the clergy of all denominations in reference to this matter, with the power, in connection with any number they might choose of such others, to call a Convention. The report was adopted; and the same committee was directed to make a nomination of the committee of twelve, which they did; and the nomination was confirmed. The meeting was then dissolved.

We are not able to give all the names of the Committee. We believe that Messrs. Cleaveland, Clark, Dexter, Walcott and Pierpont, with the secretary, were of the number.

It should be stated, that while the meeting was called by an individual of one of the denominations, at a meeting when all of them were not represented, others having come in, it was made, on inquiry and explanation, to include all that happened to be present, by any of their members.

There were many speakers, and, among them, one representing the State of Senator Douglas, but not *him*. Some who felt the most deeply counselled calm and considerate action in whatever should be done; while others seemed impatient of any restraint. It is perhaps too early to calculate the results and importance of this movement.

PORTRAIT OF ANTHONY BURNS, THE FUGITIVE SLAVE.

From a Daguerreotype taken by the German process.

Boston, Monday, May 29, 1854.

EVENING EDITION.

Four o'clock, P. M.

The Heart of the Commonwealth.

Five hundred men from Worcester, a Freedom Club, arrived in this city this forenoon. Worcester is all alive with excitement and enthusiasm. The Worcester *Transcript, a Whig paper*, has the following article this morning. It is understood to express the views of Gov. Washburn, who, we are told, arrived in this city this morning:—

LET THE LEGISLATURE OF MASSACHUSETTS BE ASSEMBLED.

The Missouri compromise has been repealed. The Fugitive Slave Law still remains on the statute book. It is not a dead letter there. To-day it lives and strikes the heart of Massachusetts. A man now lies within its fearful grasp in the city of Boston. Blood has been shed in an attempt at his rescue. A Massachusetts Court House has been converted into barracks for U. S. troops, called out to enforce the execution of the law. Massachusetts troops are now under arms to preserve the peace. The life of a Massachusetts citizen has been sacrificed, and tens of thousands of other good citizens are goaded to phrensy by this new and wanton attempt to execute the law. A recurrence of the attempt hereafter is sure to draw on a recurrence of all the connected evils with tenfold aggravation; *and a recurrence of the attempt is sure to take place.* A grave crisis has arrived which ought to be firmly met, but not by lawless multitudes. We invoke the interposition of the supreme authority of the State. Let the Legislature be assembled forthwith; on the one hand to take into consideration the new relations to the rest of the Union into which the Commonwealth of Massachusetts has been brought by the repeal of the Missouri Compromise; and on the other to make Massachusetts an asylum of liberty to the fullest extent in their power, and to enact such statutes as shall tend to secure the State against any further attempt to execute the fugitive slave law within its limits.

THE WORCESTER FREEDOM CLUB marched up Washington street from the depot, this forenoon, attended by crowds of sympathizing citizens. Three cheers were given by them for the "Commonwealth," as they passed our office. Their appearance in Court Square was the signal for a storm of cheering from the large concourse of citizens gathered around the "Slave Pen." A chorus of groans, in which the crowd joined with extreme unction, greeted the ugly heads of the U. S. Marines protruding from the upper windows.

After marching around the "Barracoon," the Club proceeded to Melonaon Hall, Tremont Temple, where they were addressed by Dr. O. Martin, of Worcester. Wm. Lloyd Garrison entering the hall, was received with great cheering, and addressed the assembly. Several other gentlemen also spoke, their remarks being welcomed with intense enthusiasm. The most enthusiastic applause was elicited by every allusion to Gov. Washburn—the hall being filled with our own, as well as the citizens of Worcester.

This is indeed cheering. Worcester sends us an organized deputation whose presence is a protest! It represents the unstifled humanity—the inerradicable and noble hatred of tyrants, and the undying love of liberty, which throbs and leaps in the bosom of our people! Thank God! Massachusetts is awakening to a conviction of her duty, and this is but the beginning of the end. The heavy hand of the slave power laid upon the Heart of the Commonwealth, finds its pulses true to the cause

A SALE OF THE FUGITIVE UTTERLY REFUSED.—We learn that, Saturday night, when those who were negotiating with Suttle and his counsel for the sale of Burns, parted with him, about twelve o'clock, it was understood that they would meet again this morning, and complete the arrangement. But, this morning, when they went to him again, to have the documents executed, as had been agreed, he said to them:—"I WILL NOT SELL MY SLAVE FOR $1200, NOR FOR ANY SUM, BUT I WILL TAKE HIM BACK TO VIRGINIA." Those who had believed that Burns could and would be released, this morning, by paying the claimant's price for him then fully beheld and felt the real purpose of this man hunt in Boston.

BY TELEGRAPH

To the Commonwealth.

NEW YORK, May 29, 1854.—BROTHERS AND CITIZENS OF BOSTON! Deliver not the oppressed into the hands of the oppressor! "Liberty or death!"

MANY CHRISTIANS OF NEW YORK.

THE BOSTON PULPIT ON THE FUGITITE CASE. We learn that Anthony Burns' request for prayers was generally read and noticed in the churches, yesterday. From a gentleman we learn that Rev. Mr. King "not only prayed but preached as a true lover of liberty and humanity should have done;" that "Rev. D. Peabody made a few touching remarks and offered a very impressive prayer in behalf of the poor man who is now in the Boston Slave Pen;" and that "Rev. Mr. Ellis, of the 1st Church, in Chauncey Place, also prayed for Burns most earnestly."

Another says, "a request for the prayers of the people of God in behalf of Anthony Burns, having been read in the pulpit of Phillips Church, South Boston, yesterday afternoon, the pastor, Rev. Chas. S. Porter, stated that it was a very proper request, inasmuch as we are required to 'pray for all men,' and in particular to 'remember such as are in bonds as bound with them,' and then offered a fervent and appropriate prayer for the poor, distressed fugitive, that he might be relieved from his present condition of peril, that the dealings of God's providence might be sanctified to him, and that all human enactments that operate unrighteously and oppressively, might be speedily done away."

WHO REFUSES TO SELL?—It is generally believed that the negro-driver, Suttle, acts by advice of President Pierce himself, through Hallett, the Attorney, when he refuses to dispose of Burns. The Government mean to have Massachusetts completely subjugated.

Hon. Edward Everett on Public Sentiment in Boston.

WASHINGTON, May 28.—Mr. Everett writes from Boston that he finds there a feeling of hostility which he can neither approve of or resist; the dissatisfaction is strongest among the staunchest friends of the Compromise of 1850.

DAILY ADVERTISER.

BOSTON:

TUESDAY MORNING, MAY 30, 1854.

ANTI-SLAVERY EXCITEMENT.—The streets of the city were full of people yesterday, many of them strangers, but there was no violence. The arrangements for the preservation of order by the municipal and United States authorities were so well perfected that it was sufficiently obvious that no riotous demonstrations could result in any practical benefit. There was a crowd near the Court House throughout the day and evening. But one arrest was made.

We regret to state that the negotiation for the purchase of the negro failed. It is not impossible that it may be carried through after the Commissioner has given judgment. We understand that four hundred dollars, or one-third part of the whole amount of the purchase money, was raised by Edward G. Parker, Esq., one of the counsel for the claimant, and was embraced in a check payable to his order. His services in behalf of the claimant, which are rendered to the extent of his abilities as a lawyer, are simply professional. We give below a statement of the history of the negotiation.

A Worcester paper puts forth a recommendation, which we can hardly suppose to be intended in earnest, for the adoption of measures in resistance of the fugitive slave law. It surely cannot be intended to advocate a measure which would bring the people of the State in direct conflict with the Government of the United States. The people of Massachusetts understand too well the obligations of the Constitution, and their duties as citizens, to listen to any such recommendation.

We give in another column a full report of the hearing yesterday before the Commissioner. As the counsel for the alleged fugitive insisted on the repetition of the proceedings anew, from the beginning, this report comprises a complete history of the case so far as it comes before the Court. The proceedings were pushed forward with as much rapidity as was consistent with the nature of the case; Mr. Ellis was speaking when the case was adjourned. The hearing will be resumed at nine o'clock this morning, and it is not improbable that it will be finished to-day.

The following statement of the history of the negotiation for the purchase of Burns, is furnished by Edward G. Parker, Esq, one of the counsel for the claimant:—

At the time of opening the hearing before Commissioner E. G. Loring, in the case of the alleged "fugitive from service and labor," Anthony Burns, I was told that if the claimant would consent, $1200 could be raised within five minutes, to buy the freedom of said Burns. I advised with the claimant, and he consented, provided it were done forthwith. I then myself drew up a paper for subscriptions therefor, to wit: buying the freedom of said alleged slave. Subsequently I drew up another paper of similar character, for the Rev. Mr. Grimes, the colored clergyman, but I told him and assured him, over and over again, that the whole matter must be fully arranged and completed absolutely forthwith, and certainly that day, or the claimant would be released from all assent to the agreement, which he had only made, to show that he was not harshly disposed toward the boy Anthony Burns. At 8 o'clock P. M., in the evening, only $800 had been raised. Knowing then that the matter must be very speedily consummated, if at all, I took another subscription paper and went with other gentlemen to the houses of several persons, to ask their contributions; telling them no time was to be lost. Finally, about 11 o'clock at night, a citizen of Boston put into my hands a check for $400, payable to my own order, expressly stipulating that I should not endorse it unless the freedom of said Burns was obtained that night.

Both the counsel for the claimant, then went immediately to the office of the Commissioner, who issued the warrant. Here a deed of manumission was drawn. The said Commissioner and both the counsel then went to the United States Marshal's office to complete the discharge of said Burns. It wanted about a quarter of twelve o'clock when we arrived at the Court House. Some discussion then ensued between all parties, the United States Commissioner, the United States Attorney, and the counsel for the claimant, as to whether it would be necessary for the claimant to be brought down in person, to entitle the Commissioner to discharge said Burns, and also as to the protection of the United States Marshal from the costs of all the military and other extra expenses in case of a voluntary discharge of the person claimed. The statutory costs, although the claimant had not agreed to pay them, it was understood there would be no difficulty about. Before these two matters could be arranged, the *clock struck twelve*. I then told the Rev. Mr. Grimes that, inasmuch as the money was raised before twelve o'clock at night, I thought the claimant ought not to retire from the bargain unless the parties withdrew the proffered money. The next morning being Sunday, the last mentioned check of $400 was *withdrawn from me by the drawer* thereof. This wholly absolved the claimant from his agreement. And now, the claimant being advised thereto by many lovers of law and order, declines to negotiate further until it is first established that the supremacy of the law can be maintained.

ADJOURNED HEARING

Before Hon. Edward G. Loring, Commissioner of the Circuit Court of the United States for the First Circuit and District of Massachusetts, in the case of Anthony Burns claimed by Charles F. Suttle, of Virginia, as owing labor and service to him in Virginia, and as having fled to Massachusetts.

Seth J. Thomas, Esq. and Edward G. Parker, Esq., counsel for the claimant.

Richard H. Dana, Jr., Esq. and Charles M. Ellis, Esq., counsel for the alleged fugitive.

[Reported for the Boston Daily Advertiser.]

MONDAY, May 29, 1854.

At eleven o'clock, the Commissioner, Hon. Edward G. Loring, took his seat. Anthony Burns had been brought in a few moments before.

At eighteen minutes after 11, Mr. Dana came in, and at half-past 11 Mr. Ellis opened the proceedings.

He said—We feel bound to protest against proceeding in this order. It is not right and fit. To the prisoner your honor has granted such indulgence as leaves us nothing to complain of. Of other matters we have reason to complain. Mr. Ellis asked the Commissioner to say whether he would consent to proceed so long as counsel bear arms. It is a shame that any man should ever be called on to stand in court where such things are tolerated! Mr. Ellis further complained that the prisoner should be ironed. It is not fit, it is not law, that a man should undergo trial with his arms pinioned. [It was stated that the prisoner was not now in irons] Then, said Mr. Ellis, that is all right.

Mr. Ellis further complained that the Court Room was packed with friends of the restoration of the alleged fugitive. He had with difficulty been able to introduce a few personal friends. He contended that it was not fit that every avenue to the temple of justice should be blocked with armed men. He prayed the Commissioner to give such directions as should prevent the continuance of such proceedings.

The Commissioner remarked that the hearing must proceed.

Hon. B. F. Hallett rose and said that it was absolutely necessary that a force should be employed for the protection of the Court House.

The Commissioner said that all this was irrelevant.

Mr. Hallett proceeded, remarking that the troops were here in obedience to orders from the President of the United States and of Judge Sprague.

The Commisssioner—This must stop.

Mr. Hallett continued nevertheless to say that the Marshal was simply discharging his duty.

The Commissioner—I understand this very well.

Mr. Hallett at last took his seat

Mr. Ellis objected that an officer of the United States should disobey the directions of the Court.

The Commissioner—That matter is my concern. Let the hearing proceed.

Mr. Ellis made further objections to the regulations regarding admission to the Court Room.

The Commissioner—Let the hearing proceed.

Mr. Ellis was understood next to inquire whether there was any appeal from the decision of the Commissioner, and was answered in the negative.

Mr. Ellis—We feel bound to object to your honor's proceeding as Commissioner, not having been qualified.

The Commissioner—I was qualified fifteen years ago. The oaths were administered by the late Justice Story.

Mr. Ellis—We can find no record of the fact.

The Commissioner—It is nevertheless a fact.

Mr. Ellis—We have not found the record.

The Commissioner—I remember taking the oath. Let the hearing proceed.

Mr. Parker inquired if the complaint and other proceedings of the former sitting must be repeated.

The Commissioner said it was not necessary so far as he was concerned.

Mr. Ellis said he preferred the proceedings should begin *de novo*.

The Commissioner said that this was a continuance of the former sittings, and the matters before presented were already in the case.

Mr. Dana said that this was the first occasion when the prisoner had counsel present prepared to act. Before the man was ignorant and uninstructed, without counsel.

The Commissioner—If you assure me that repetition of the proceedings is necessary to enable you to understand the state of the case, they shall be repeated.

Mr. Dana—We wish the whole.

The Commissioner—Read the complaint, Mr. Parker.

The complaint was read, and Mr. Parker then recalled his first witness, William Brent, and asked if he should repeat his former testimony.

Mr. Dana—We know nothing.

The Commissioner—You shall have the whole.

William Brent testified that he resides in Virginia—is a merchant—has resided there a little more than four years—formerly resided in Stafford County, Virginia—knows Col. Charles F. Suttle, of Virginia—has known him almost as long as he can recollect—knows Anthony Burns—Burns is now in the Court Room—(witness pointed him out, the prisoner)—knew Burns in Virginia.

[Mr. Parker then asked what relation, if any, subsisted between Burns and Suttle in Virginia. Messrs. Dana and Ellis objected to the question as involving a question belonging to the Court to decide and not to the witness. The Commissioner said that the witness might state facts and he would draw from them the proper inferences.]

Mr. Brent stated that Burns held to Col. Suttle the relation of a slave to his master. He was hired out by Col. Suttle: Col. Suttle received the wages for his work: he was wholly under Col. Suttle's control—the control which masters have in Virginia over their slaves. Mr. Brent had hired him two or three years himself. Paid Col. Suttle for Burns's services. This was in 1846--7--8 or 1847--8--9. Knows other instances in which Col. Suttle has hired out Burns's services. As Col. Suttle's Agent, he (Brent) had hired out Burns last year and this year, and his wages were paid to Col. Suttle. Does not know where Burns was born. Has known him as a slave twelve or fifteen years. Last year Burns was hired out in Richmond: he left Richmond in March. He was hired by a man named Millspaugh. The wages for his service have not yet been paid—Col. Suttle is to receive them. This Anthony Burns is the only Anthony Burns witness knows. There are two particular marks by which he may be identified (1) a scar on his cheek (2) a cut across his right hand.—He is about six feet high. Witness has been many times over Col. Suttle's place and has seen Burns.—Knows his mother, brother and sister. Saw him last on the Sunday before his absence. Thinks the date was March 20 He was missing on the 24th of March. Witness has been in Virginia ever since, until a week ago Saturday, when he left to come North.

[Mr. Parker asked witness if he knew how Burns effected his escape. Witness said he knew from what he said himself Mr. Ellis pointed out that §6 of the fugitive slave act prohibited the testimony of the alleged fugitive from being admitted in evidence. After discussion on both sides, during which Mr. Thomas referred to the case of Sims (14 Law Reporter, page 3) the Commissioner said that it was his impression that the language of the act does not refer to admissions made by the fugitive which when introduced by the claimant are strictly the testimony of the other party. He would therefore allow the questions to be asked, and if the use of the answers should become material he would further examine the point.]

Mr. Brent in answer to this and subsequent questions detailed the conversation which took place in his hearing between Burns and Col. Suttle on the Wednesday night when he was arrested. When Col. Suttle and Mr. Brent entered the room where Burns was, Burns saluted Col. Suttle and said, "How do you do, master Charles."

Col. Suttle said—"Anthony, how came you here?" Burns said an accident happened to him—he was working on board a vessel—got tired—fell asleep—and was carried away on board the vessel.

"Anthony, did I ever whip you?" "No, sir."

"Did I ever hire you out anywhere where you did not wish to go?" "No, sir."

"Have you ever asked me for money that I did not give it to you?" "No, sir."

"When you were sick, did I not prepare you a bed in my own house, and put you upon it, and nurse you?" "Yes, sir."

Burns then observed Brent, and said "How do you do, master William?"

Something was said about going back. He was asked if he was willing to go back, and he said, yes, he was.

Mr. Brent proceeded—know Anthony Burns's mother, sister and brother. His mother is a slave of Col. Suttle.

[This remark caused a discussion and witness was told to confine himself to the statement of facts from which the relation of Burns or his mother to Col. Suttle might be inferred.]

Burns's mother lives on Col. Suttle's plantation and is subject to his control.

When I hired Burns, Col. Suttle said he was his property. I gave bonds as is customary in such cases. Col. Suttle gave a mortgage on Burns at one time to raise money. He mentioned his slaves in the mortgage, declaring that he owned them; among them Anthony Burns. When Col. Suttle wrote me to hire out his servants he mentioned Burns as one of them. In Virginia it is customary to give passes to slaves when they travel. Col. Suttle gave Burns such a pass, when he came to Richmond.

The *cross-examination* of Mr. Brent was then begun by Mr. Ellis.

My age is 35. Am a merchant in the grocery-commission business. Own slaves. Do not trade in them—acquired some by marriage, some by inheritance, some by purchase. The last I bought I bought in 1841 or '42. I have never sold any. Came hither a week ago Saturday from Richmond. Was joined at Alexandria by Col. Suttle. Reached Boston Monday evening. Went to the Revere House.

Q. Does Col. Suttle bear your expenses? A. Nothing has ever been said about it.

Q. Has any thing passed between you what your pay shall be? A. Nothing.

Q. Was any thing written to you about your pay? A. Nothing. I did not come for money.

Q. You came then as a volunteer, did you? A. I came as a friend.

Q. Was there no understanding about your pay? A. No sir, not a word, no writing, no understanding.

Witness further stated in answer to questions that he had never been on similar expeditions with Col. Suttle—that Col. Suttle wrote to him to ask him to accompany him upon this expedition—that he (Brent) wrote to Suttle on the Tuesday after Burns's escape.

The conversation above detailed between Burns and Col. Suttle took place in the Court House at about 8 or 9 o'clock on Wednesday evening. Burns was not in irons. The Marshal and several officers were present—no other persons Col. Suttle said "I make you no promises and I make you no threats." after Burns said he was willing to return: omitted this before.

Q. Of course you don't know of your own knowledge that this woman whom you call Burns's mother is his mother? A. No, not from my own knowledge.

Q. So also of his brother and sister? A. The same.

The letting of Burns to Millspaugh is a matter between Col. Suttle and M. and does not affect me.

Cross examination finished.

Mr. Parker—Was the woman whom you call Burns's mother generally reputed his mother? A. She was.

Caleb Page, the next witness, was introduced and sworn. Is a teamster—resides in Somerville. Was in the room where Burns was when the conversation between him aud Col. Suttle took place. Heard a part of it. [Witness detailed the conversation substantially as above.] Burns said he did not come in Col. Snow's vessel.

Cross examined—Work in Milk street—have a team of my own—was in the room in the Court House by order of the Marshal—was going home on Wednesday night, when Mr. Butman met me, and said, "You are the very man I want," and requested me to assist in guarding Burns. I assented, merely walked behind. Am still employed in guarding him. Have never been similarly employed.

This finished the examination of this witness.

Mr. Parker then spoke of putting in anew the record of the Virginia Court. The Commissioner said it was undoubtedly already in, subject to the objections of Burns's counsel. Mr. Dana read it and said he had a number of objections.

Mr. Parker said they regarded the record decisive on two points, (1) that Anthouy Burns owes service and labor, (2) that he escaped.

He further requested the Commissioner to examine as to the identity of the prisoner in the manner most agreeable to him.

The Commissioner said he saw the scars on the hand and cheek, and the height described. If counsel wished he would have the prisoner brought to him for a closer examination.

Mr. Ellis said they did not wish it.

Mr. Thomas put in the Code of Virginia, showing the organization and powers of the Courts, referring the Commissioner to certain chapters. (Ch. 1 § 8, ch. 157; ch. 158)

Mr. Parker referred to another authority, (1 Greenleaf's Evidence, § 6, page 10,) that the Courts of the United States take judicial notice of the laws and jurisprudence of all the States.

Mr. Dana—The *Courts*. Do you call this a Court ?

Mr. Parker—I refer the Commissioner to the authority.

Mr. Dana objected to the introduction of the book (the Virginia Code) to show that persons may be held to service and labor in Virginia.

Mr. Thomas referred to 4 Pickering, that the proper mode of proving laws was by books He further put into the case the Constitution of Virginia.

At a quarter before three o'clock the counsel for the claimant rested their case there.

Mr. Dana asked an hour's delay. The Commissioner said half an hour was all he could allow, but gave forty minutes—till 3½ o'clock.

Afternoon Session.

The Commissioner came in at the appointed hour, but the counsel for Burns were not ready to proceed until 23 minutes after 4 o'clock.

Mr. Ellis said he should have been glad of time for more thorough investigation, but grateful for the delay granted would not press this point. He alluded to the outside circumstances of the trial. He inveighed against the counsel for the claimants for being willing to undertake such service. His only hope was that the Commissioner would see that the majesty of law was vindicated. In all things else this was almost anything but a trial. The Judge of the Circuit Court had refused to order a proper person to issue the writ *de homine replegiando*. The Court House is full of soldiers. "Inter arma silent leges." There is scarcely a semblance of law in the proceedings.

These trials have all been political trials. Just as the bill has passed which throws open to slavery territory solemnly dedicated forever to freedom, this case and cases in other places under the fugitive slave law are instituted. And in this connexion it is worth remarking that the Attorney for the U. S. Government attempted this morning to override the ruling of the Court.

Mr. Ellis said he should introduce testimony to show that prior to the time of the alleged escape, Burns was a free man in Massachusetts and about his work in Massachusetts.

He objected to the record of the Alexandria County Court, that it is partial and not entire; that it does not set forth the testimony in the case; and does not prove the points represented by the counsel on the other side.

He referred to the Constitution of the United States, Article 4, Section 1, and dwelt upon the nature of the faith to be given to the public acts, records and judicial proceedings of other States, that they could not have more validity than in the original state.

This tribunal is not judicial and has limited powers of cognizance.

The Virginia code, he contended was no proof at all.

He proceeded to dwell at length upon the nature of the proof of ownership required to make out a case. He had been speaking more than an hour and a half, and had not concluded, when at six o'clock the Commissioner adjourned the hearing until nine o'clock Tuesday morning.

How Burns was Discovered.—Soon after Burns' arrival here, as it now appears, he wrote a letter to his brother in Alexandria, who is also a slave of Mr. Suttle's, stating that he was at work with Coffin Pitts, in Brattle street, cleaning old clothes. This letter he dated in "Boston," but sent it to Canada, where it was post-marked and sent according to the superscription, to Burns' brother, in Alexandria. As is the custom at the South, when letters are received directed to slaves, they are delivered to the owner of such slaves, who opens them and examines their contents. This appears to have been the case with Burns' letter, and by his own hand his place of retreat was discovered by his master.

Commonwealth.

Boston, Tuesday, May 30, 1854.

MORNING EDITION.

How stands the Case?

The fugitive ease will probably be finished to day. How it will terminate we ean not prediet A point of law has been raised which will enable Commissioner Loring to dismiss the ease and diseharge the prisoner, if he is disposed to do so; and we ehoose to believe and hope that he will be inclined to allow freedom every advantage it ean gain from this souree. It is unnecessary for us to assure our friends that the prisoner is defended with the utmost ability and skill.

It is reported that Suttle—or rather *Suttler*, for this we are told is his real name—has been confirmed in his determination to violate his agreement, and refuse to sell Burns, by an influenee from Washington. It has been stated to us, by a gentleman who was in a position to be well informed on this point, that Suttler played "fast and loose" with the matter, Saturday evening, evidently to gain time, beeause expeeting some message from abroad. This gentleman is convineed that he received a despatch from head-quarters at Washington, late Saturday night, and that this despatch led him to the peremptory refusal to sell the man. Burns, offered for sale as a slave, in Virginia, would not bring $800. He is not an "able-bodied" man, one of his hands being disabled. If Suttle could make good his elaim to him, and triumphantly take him off to Virginia, he would be immensely astonished to find himself able to sell the man there for anything like the sum that has been offered him here. But the value of a slave is not what is wanted. The malign power at Washington, gloating over the passage of the Nebraska bill, requires him to persist in his elaim, and consummate the outrage. It says we must know and feel that SLAVERY IS KING.

The United States revenue cutter Morris lies at anchor near the end of Central wharf, ready for a voyage. It is currently reported that she is under orders to take Burns on board and carry him to Baltimore, as soon as the Commissioner gives him up to the elaimant. We shall see if she has occasion to undertake that voyage, for which she is commissioned by our slave-eatching government. Her offieers and crew must feel a very peculiar conseiousness of the dignity conferred upon them, if the report is true, that they have been ordered to undertake this mean business. What is the glory of Capt. Ingraham and the St. Louis, to that about to be won by the Morris and her commander?

THE CAPTURE OF BURNS.—Brent, Col. Suttle's aid in the honorable business of nigger-eatching, has given to the Commissioner his testimony as to what the unfortunate prisoner said on the night of the arrest. It seems, according to this witness, that he and his employer were admitted to the lock-up, as privileged characters. No one else in the city knew of the capture until the next morning. Marshal Freeman's duty extended not only to the exeeution of the warrant, but also to the granting of facilities to the master to procure testimony to be used in the examination against the poor prisoner. Suttle asked him various questions; did I ever flog you?—hire you where you didn't want to go?—refuse to let you have money?—and so on; to all of which questions, Anthony replied, no. And this conversation, a coneerted matter between Suttle and Freeman, is put in as evidenee. Without remarking upon the probability that a man mean enough to catch a negro would be base enough to say what is not true; we ask, of what value, in any respeetable court would be such a confession, or admission, as this which is attributed to Burns. Those who know anything of the relation between master and slave, know that it is a relation of the most unlimited control on the one side, and of the most cringing servility on the other. To bow down before the master; to lie to him when necessary, to curry favor with him for the purpose of escaping punishment—all this is a matter of eourse. Slavery degrades its victim in just this manner. So that even if Brent tells the truth, which Burns denies, through his friends, Messrs. Pitts and Phillips, the evidence of Suttle's good treatment of Burns, or the willingness of the prisoner to return to slavery, is good for nothing. The simple answer of the poor outeast to Wendell Phillips, is worth more than all this: *"If I wanted to go back, why did I come here?"*

The arrest, by night, by a false pretenee, is sufficient reply to all this humbug which the negro traders have got up. If Suttle believed that Anthony would be willing to go back, why did he not go to him, and proeure him to return peaceably? He knew where he was to be found. He could have accosted him in the street or at the place where he was employed, and have had an opportunity to use his most persuasive appeals. He knew better than to do this. He knew that Burns wanted to keep away, as every slave does, who ever tried liberty. He knew that if he had even a suspieion that his master was after him, he would start forthwith for free Canada. So he had to call upon the government to arrest him. And, to satisfy the Commissioner and mislead the publie, he was allowed to see his vietim, in the night, when all other men were excluded, and to procure from him admissions, to be used against him on the trial. The detestable *meanness* of this business is worse even than its outrageous and open villany.

A DRUNKEN MARINE ON GUARD.—The troops of the UNITED STATES, now garrisoned in the Court House of the COUNTY OF SUFFOLK, are well taken care of by the Marshal. Food is given them to their stomachs' content; and their courage is kept up to the piteh required for the business of kidnapping, by RUM!! At any rate, yesterday afternoon, the marine stationed at the foot of the stairs leading to the Court room, was in a state of brutal intoxication, and presenting his bayonet at one of the prisoner's counsel who was entering, told him in the most insulting manner that he could not pass. Mr. Dana, the gentleman referred to, turned to a policeman near at hand, and informed him that the fellow was drunk. The policeman apologized for the poor drunken fool, and secured for Mr. D. a passage up stairs; he then reported the drunken marine to his commanding officer. Mr. Dana is not the first respeetable citizen of Massachusetts having business in the Court House, who has been insulted by the creatures now employed to fortify and hold it as a Bastile of the slave power. SHAME ON MASSACHUSETTS! Shame on her forever, if

For the Boston Daily Advertiser.

TO THE PATRIOTS OF BOSTON.

In view of the dangerous excitement which has prevailed here for the past few days, of the lawless and shameful proceedings in Faneuil Hall and Court Square—of the murder of a good citizen by some fanatic, doubtless roused to madness by the treason he listened to in Faneuil Hall—it becomes the duty of every good citizen to use all his influence, great or small, in favor of our Union and Laws.

The effect of the Nebraska folly has been to induce many a citizen who would formerly have willingly ventured his life in support of our laws, to look almost with approbation on the late atrocious proceedings. Some of our most respectable papers instead of using the language of stern reprobation which such events deserve, speak of them as almost excusable and as a deserved retaliation on the South for passing the Nebraska bill.

This is a most undeserved libel on the South, for the Nebraska bill whatever its effect may be—and if as its friends promise, it will put an end to slavery debates in Congress, it is a happy effect for the slave—was originated by a Northern man and passed by Northern influence.

The present state of feeling cannot but be disastrous; passion here is sure to excite greater passion in the South, and if it has any result it will be disunion.

Let us listen once more to the voice of that patriot and statesman Henry Clay. His opinion is well known that slavery can be abolished only by the slave States themselves, and that all Northern excitement only postpones emancipation and if carried too far will bring disunion and civil war.

He said in 1839, and it applies with tenfold force to the present time,—"The abolitionists, let me suppose, succeed in their present aim of uniting the inhabitants of the free states, as one man against the inhabitants of the slave states. Union on the one side will beget union on the other. And this process of reciprocal consolidation will be attended with all the violent prejudices, embittered passions, and implacable animosities which ever degraded or deformed human nature. A virtual dissolution of the Union will have taken place while the forms of its existence remain. The most valuable element of union, mutual kindness, the feelings of sympathy, the fraternal bonds, which now happily unite us will have been extinguished forever. One section will stand in menacing and hostile array against the other. The collision of opinion will be quickly followed by the clash of arms I will not attempt to describe scenes, which now happily lie concealed from our view. Abolitionists themselves would shrink back in dismay and horror at the contemplation of desolated fields, conflagrated cities, murdered inhabitants, and the overthrow of the fairest fabric of human government that ever rose to animate the hopes of civilized man. Nor should these abolitionists flatter themselves that, if they can succeed in their object of uniting the people of the free States, they will enter the contest with a numerical superiority that must insure victory. All history and experience proves the hazard and uncertainty of war. And we are admonished by Holy Writ, that the race is not to the swift, nor the battle to the strong. But if they were to conquer—whom would they conquer? A foreign foe—one who had insulted our flag, invaded our shores, and laid our country waste? No, sir; no, sir. It would be a conquest without laurels, without glory; a self, a suicidal conquest; a conquest of brothers over brothers, acheived by one over another portion of the descendants of common ancestors, who, nobly pledging their lives, their fortunes, and their sacred honor, had fought and bled, side by side, in many a hard battle on land and ocean, severed our country from the British crown and established our national independence."

Let every man reflect on this, for it is no vision, but the prophecy of a wise and patriotic statesman. As long as abolitionism was confined to a few fanatics there was little danger; but when honest and sensible citizens allow their feelings to interfere with their regard for the law of the land, our existence as a nation is in danger.

Let every good citizen of our patriotic city now do his duty and that duty is to sustain the laws with heart and hand.

FRANKLIN.

ADJOURNED HEARING

Before Hon. Edward G. Loring, Commissioner of the Circuit Court of the United States for the First Circuit and District of Massachusetts, in the case of Anthony Burns claimed by Charles F. Suttle, of Virginia, as owing labor and service to him in Virginia, and as having fled to Massachusetts.

Seth J. Thomas, Esq. and Edward G. Parker, Esq., counsel for the claimant.

Richard H. Dana, Jr., Esq. and Charles M. Ellis, Esq., counsel for the alleged fugitive.

TUESDAY, May 30, 1854.

The Commissioner took his seat at 9 o'clock, A.M.

At about half past 9 o'clock Mr. Ellis resumed his argument in behalf of the negro. He contended that the warrant upon which Burns was apprehended was not sufficient, and that the charge was not stated with such precision as he had a right to demand. He contended that the record of the Virginia court would not be valid in Virginia to change the ownership of a slave, and certainly could not have more force here than there. He urged that the admissions said to have been made by the alleged fugitive ought not to have weight against him. He urged also that the title of Col. Suttle to the slave was doutful, since it appeared that he had mortgaged him with others, in which case the true title was in the mortgagee. He urged that an *escape* had not been proved: the prisoner might have been brought away while asleep, without intending to depart, on board ship as he says he was. He contended that so important matter ought not to be decided by the testimony of only one witness. He inveighed against the fugitive slave law of 1850, comparing it with that of 1793, and representing that it had many extraordinary provisions the constitutionality of which was affirmed four years ago only as a matter of political expediency, a reason for sustaining it now no longer existing.

Mr. Ellis said he shonld introduce witnesses to prove that Burns was in this city early in March, although the claimant's witness, Mr Brent, testified he was in Richmond as late as the 20th. He concluded with an earnest appeal to the Commissioner to decide with independence and impartiality, in accordance with his well known candor, intelligence and justice. He spoke more than two hours.

The witnesses in behalf of the alleged fugitive were then called, as follows:

William Jones, (colored.)—resides in South Boston; am a laborer; know Burns, saw him first on Washington Street the first day of March; I talked with him half an hour; I employed him to go to work on the 4th day of March in the Mattapan works at South Boston; worked at cleaning windows; he worked with me there; he worked there with me five days; the day I saw him I made a minute of it in Mr. Russell's shop and asked Mr Russell to put it down on my book; keep a memorandum; can't write myself; the entries were made in the book by Mr. Russell; I agreed to give him eight cents a window, and when he got through with the windows, I gave him a dollar and a half; he said I hadn't settled up with him right; he went to the clerk about it; I have that memorandum book; (it was handed to the counsel); on referring to this book I am able to state that I did go with him at this time to South Boston to work.

Cross examined.—Never saw Burns before I saw him on Washington street; he spoke to me first; don't recollect the day of the week; about the first of the week, I saw him just before the *Commonwealth* office; he was alone; it was between eleven and twelve o'clock; he had on lightish pants; can't describe his dress more particularly because it wasn't my business to examine his dress; he had on a lightish coat and cap; he asked me if I knew of any one that wanted a man to work in a store; I said what can you do? he said he could do most anything; I took him from there to Mr Russell's shop, and went from there to Mr. Favor's shop; Russell keeps in the next street to Water street; don't know his christian name; he keeps a boot black shop; stayed there five

minutes: went from there to Mr Favor's in Lincoln street and stayed there three quarters of an hour; then to an an apothecary shop under the U. S. Hotel;

I stayed there 25 or 30 minutes; I next went to Mr. Mattuck's in Essex street; he keeps a clothing store; arrived there about 2 o'clock; had nothing else to do but walk round the city; after leaving Maddox come down Washington street; went into Mr. Bell's, dancing master; he went there with me; didn't remain half a second for he wan't in; then went down Washington to Kneeland street and theo went home at South Boston; Burns went with me; it was night when we arrived home; we had not dined; I eat but one meal a day, and have no particular hour for that; it was a little cold; there might have been soow on the ground, but I don't recollect; don't recollect whether it snowed or rained; it might have rained twenty times, and I not noticed it; he stayed with me that night, the next night, and the next, and the next; I never expected to see this that I see here now; the next morning after he went home with me, he came to the City Hall to see Mr. Gould; I went to see if there were any orders; it was between 10 and 11 o'clock; went to get employment for myself; next went to School street; then went out on the neck to take a walk and see what I could see; did't call on any body but Mr. Gould; next day got up, washed my face aud hands; went to the Mattapan Works; saw Mr. Sanger, the hoss; stayed two or three hours; talked with him about the joh; went home about 11 or 12; Burns was with me all the time; went back to the Mattapan Works and commenced work at 1 o'clock; remained there till night; Burns was with me all the time; he helped me clean the windows; next morning went back to work with me; he had no trunk; worked all the next day cleaned windows; never keep the run of day; weather, or the day of the week; after finishing my work at the Mattapan Works went to City Hall to see Mr. Gould; Burns went with me; there was no work to be done and we went home then; on the 18th day of March went to work at City Hall; he was with me there about three times; he made fire under the boiler for me as an accommodation; he stayed with me until the 18th; I left him here on the morning of 18th; never put eyes on him again until Sunday morning, when I saw him looking out of the window of the Court House; I stood on the opposite side; his head was out of the window; it was near 12 o'clock; had been before to the Revere House and called on Col. Suttle; went on the Friday previous to see Suttle; it was Thursday or Friday; saw a good many men beside Suttle; didn't know any of them; had never seen Colonel Suttle any where else; might have seen him in Virginia; but I didn't know him; first heard of the arrest of Burns on Thursday; came into the Police Court and the Municipal Court; I heard there was a man arrested and I walked round here and I didn't believe; one of the officers told me of the arrest; I stayed at the Court House all night Friday night, me and a watchman together protecting the city property; I employed myself; didn't come into the Court Saturday because I couldn't get in; nobody spoke to me about being a witness here; I came here because I saw this man looking out of the window. Had no conversation about testifying in this case till yesterday morning about 10 o clock; I suppose I have mentioned the subject of this matter to a hundred persons, but cannot tell their names, except Mr. Mattucks; came here this morning with Mr. Lawton; went from this Court House at 7½ o'clock Saturday night and came back as the bells were ringing for church Sunday morning and went to the Revere House; was at meeting in Faneuil Hall and came from there when the meeting broke up; stood in Court street until the mob left the square, and then went up the square to protect the city property; first heard him call Anthony Burns on Thursday; a man read it from the newspaper; I called him John and Jack, or any short name that came handy; have not spoken to Mr. Carlton, an officer, since Friday or Saturday; spoke to Mr. Carlton in the Marshal's office; might have passed some words with him; didn't tell him that Burns belonged to Col. Suttle; applied to the Marshall for a permit to see Burns, and he said he wouldn't let his master see him; I didn't say if I saw Burns I would advise him to go back to Virginia.

George H. Drew. Was book-keeper at the tapan Works until the 18th of this month. Knew that Jones was employed about the 1st of March to wash windows at the Mattapan Works; he was there several days; there were two or three men with him; there was a colored man working with him; had not seen the prisoner at the bar from the time he arrived there until I saw him here yesterday; yesterday came in here and when I saw Burns recognized him; now recognize him; saw him before with Jones when Jones came to get a job, and I referred him to Mr. Sanger; I looked at this man and asked Jones, if he was his brother and he said all men are my brothers; about the first of March after I settled with Jones, Burns came to me and asked me how much I paid Jones, don't recollect the number of days they worked; have no doubt of the identity of the man; recognize him by his general appearance; saw him enough here to recognize him; when I came in yesterday, Burns followed me all round the room with his eyes; I paid Jones for his work.

Cross-examined. Saw Burns twice to notice him particularly; one of these times was when he came to ask how much I paid Jones; and the other, when they came to see about the job; somebody sent for me yesterday noon, saying that I might be wanted as a witness here; was brought here yesterday to look at Burns; Mr. Stetson came to me yesterday at my residence 13 Indiana Place; I hadn't been here before yesterday; Stetson said I was wanted as a witness at the Court House; was outside of the Court House yesterday morning; was not outside of the Court House Friday or Friday night; was about here one hour on Saturday; I never noticed the scar on his hand; was not at the Faneuil Hall meeting on Friday.

At 2¼ o'clock, the case was adjourned until 3.

Afternoon Session.

The Commissioner resumed his seat at three o'clock.

After a short delay, Mr. Ellis recalled *George H. Drew*, who stated that he fixed the date of Burns's employment by means of the record on his books of payments to Jones. He paid Jones $1 50 on the 4th of March, and $33 on the 28th of March, the last in full for services rendered at various times previously—the last work had been done several days before this payment.

James F. Whittemore. Is a machinist. Resides in Boston. Is a member of the Common Council; was a director of the Mattapan Iron Works in March. Returned home from a Western journey on the 8th of March; saw the prisoner on the morning either of the eighth or ninth of March cleaning windows at the office of the company, with Jones. Was there about an hour. The prisoner is the same man. Saw the mark on his cheek, and observed that something was the matter with his right hand. Have seen him for some hours. These marks correspond with what I now see upon him. When I saw him in March, it was my first visit to the office after my return.

Cross examined—Am sure about the date, because I know what days I left New York and Philadelphia. Had not seen Burns since I saw him in March, until this morning. I came into the Court Room to see if I could identify him. Nobody asked me to come. When I came in, I took a seat, looked round, saw the prisoner and immediately recognized him; said so to Mr. Putnam who sat at my side. I heard last night at the armory of the Pulaski Guards (of which I am a member) that an attempt would be made to prove that Burns was in Boston before the time of his alleged escape, and that he had been with Jones. Am not a free soiler or abolitionist, but a hunker whig.

Stephen Mattucks, (colored) live at 72 Essex Street: have a shop there: deal in clothing: was there in March. Know the prisoner by sight. He called at my shop with Jones about the first of March, one day at about noon. Jones said, "here is a man that wants some work." I said "I have none at present but my outside work will begin to be busiest in about two months, that is about the first of May." Recollect distinctly that I said "about two months, that is

about the first of May." This is how I fix the date. Noticed Burus particularly. Observed the scar on his cheek, as he turned to leave the shop. Did not see him again until to-day. When I entered the Court Room I recognized him immediately myself as the same man. Nobody pointed him out to me.

Cross-Examined—Have been in Essex Street since August 9th last—before that was at 474 Washington Street. Was not born in Boston. Burns was not introduced to me when Jones brought him to my Store. Did not here him called by any name. Did not ask him any questions. My store is tolerably large. I was standing near the centre. There is hut one window, and clothes were hanging in it. Do not know whether the day was warm, cold, fair, or cloudy. Do not know how Burns was dressed: think he had lightish clothes. Have had but two or three moments conversation with Jones: that was last night and this morning. Nobody has reminded me of the scar. Was at Faneuil Hall on Friday. Passed the Court House after the meeting: stopped in Court Street about 20 minutes. Did not see Jones then. [The testimony of this witness was given with commendable clearness and distinctness.]

William C. Culver.—Blacksmith: employed by Mattapan Company in March as foreman in their blacksmith shop. Recollect that Jones was there cleaning windows. During March we began work at 7½ and closed 6: it was during those short days that Jones cleaned those windows. We changed our hours in April. It was prior to April that Jones cleaned the windows. No cross examination.

John Favor.—Reside in Boston: am a carpenter: shop on Lincoln street: saw Jones about the first of March at my shop, about 2 or 3 o'clock in the afternoon. There was a colored man with him. He was there fifteen or twenty minutes. Jones asked me if I could tell him where he could find employment for the colored man with him; did not see the colored man again till yesterday; before I saw him I thought I should be able to recognize him if I saw him. I came into Court yesterday with Mr. Ellis and I then recognized the prisoner as the colored man. I have no doubt about it in my own mind. Should judge it was between the 1st and 5th of March that I first saw him. I have no means of fixing the date.

Cross examined—Jones did not mention the name of the colored person with him: I had a short conversation with the colored man: Have never seen him since that time, until yesterday. Expected to be able to identify him by his general features.

B. H. N. Gilman.—Live in Boston; am in wholesale grocery business. In March was in the employ of Mattapan Iron Works as a teamster: remember Mr. Jones working for the company; he had a colored man with him about the first of March: noticed him at the time: observed the scar upon his face: saw him after the work was finished in the counting room one day: did not see him again until this morning: have not been in Court before: saw Jones yesterday who asked me if I did not remember the man in his employ last spring: noticed the prisoner Burns myself when I first entered: he was not pointed out to me: he is the same person that was at work for the Mattapan Company in March last.

Cross examined.—Saw Jones and his companion at work half an hour in all. Don't know what I was doing. Cannot say whether I was in the house or out of the house. Cannot tell whether I had any conversation with Jones or his companion. Left the employ of the Mattapan Company April 13th. We were paid off once a month: and as far as I can recollect I saw Jones and his companion about pay-day. I thought yesterday I should be able to identify the man if I saw him. Cannot say whether Jones reminded me yesterday of the scar: he might have, and he might not. Feel more certain that it was the first week in March than the second week that Jones and his companion were working.

Rufus A. Putnam. Machinist: live in Boston: in March last was in the employ of the Mattapan Company: remember when Jones was employed with one or two colored men cleaning windows. On the first of March I commenced a job and recollect that when I commenced it Jones was cleaning those windows. Further, in March we began work at and in April at 6½.

Cross examined.—The change of hours in beginning work shows that Jones was cleaning windows previous to April. The job I began was the first part of the month: am confident it was before the 3d day of the month. Have a memorandum showing when I began my job; looked at it on Sunday. Went to Mr. Ellis's office this morning at the request of Mr. Drew. Was never there before. There was nothing to connect my job with Jones's work. I began my job a short time before. It was cold weather when the windows were washed, so that it was uncomfortable in the shop. The job is not done yet.

Horace W. Brown: am policeman: reside in South Boston: have seen Burns before I saw him here: saw him cleaning windows at the Mattapan Works, South Boston: I was then working as carpenter at the Mattapan Works: left off work on 20th of March. We were paid on the first of the month. We had $1.50 a day. I was paid $19.50. Worked every day in March, except Sundays, until I stopped. It was sometime before I stopped that Jones and his companion were working. I have no doubt at all that the prisoner is the same man.

Cross examined—Was first spoken to about this matter this afternoon. Had never spoke to anybody about it before. Heard it spoken of at the Police office and came up here, of my own accord, and told Dr. York that I had seen Burns. Had never seen him before since I saw him at South Boston. I came in to see if I could recognize him. I had heard that Jones had been testifying here that the man who was cleaning the windows with him was Burns. Had known Dr. York previously: he is my physician.—Jones and his companion cleaned the windows a week or ten days (not more than ten days) before I left, which was about the 20th of March. Did not hear the name of Jones's companion mentioned. There are no other circumstances enabling me to identify Burns than those already described.

Mr. Ellis then said (23 minutes before 6 o'clock)—This ends our case.

Mr. Parker said that he had several more witnesses to call for the claimant.

Cyrus D. Gould. Did not hear Jones's testimony this morning. I was at the City Hall about the first of March: have been there in charge of the building nearly two years; am there constantly; was there during the whole month of March; Jones worked for me at the City Hall on the 10th of March, two or three hours; he worked on the 16th and 17th for me in the Probate Court building, washing floors, cleaning up, &c. I did not see Burns with Jones any of the time. There was no man at all with Jones. Two women were working with him. A brother of mine, Erastus B. Gould, has charge of the City Building No cross examination.

Silas Carlton—Knows Jones by sight. Have had a conversation with him within a few days, on the subjects upon which he testified this morning.

Mr. Parker said he wished to disprove by the witness Jones's statements that he had never admitted that Burns belonged to Col. Suttle, and that he never said that if he could see Burns he should advise him to go back. Mr. Dana objected to these questions. A discussion ensued, and before a conclusion was reached,—

At 6 o'clock the hearing was adjourned to nine o'clock Wednesday morning.

NG TRANSCRIPT.....

THE FUGITIVE SLAVE CASE.

Examination Before U. S. Commissioner Loring.

Wednesday, May 31.

[In consequence of the character of the evidence given yesterday, so favorable for the prisoner Burns, the excitement in the vicinity of the Court House was very visibly abated this morning. At the opening of the Court there were but 200 or 300 persons in the square. In addition to the distinguished abolitionists of this city who have constantly attended the trial, Hon. J. R. Giddings, of Ohio, was present for a short time this morning.]

Proceedings commenced at 20 minutes past 9 o'clock.

REBUTTING TESTIMONY FOR PROSECUTION—CONTINUED.

Erastus B. Gould, sworn. Reside in Porter street, Boston; am a ship carpenter; have had the care of City Building for two years; know Jones, the colored witness in this case; he was employed at work in the City Building on the 25th of March; no man with him, but a couple of colored women, engaged in cleaning; I am only at the building mornings and nights; my brother sent Jones to me on the date mentioned; never employed Jones myself.

Cross-examined. My brother has the care of the Probate office building, and goes there nights and mornings.

Wm. H. Batchelder, sworn. Had a conversation with Jones; it was at the outside door of the Court House, between 6 and 7 o'clock Monday evening.

Benj. True, sworn. Have had a conversation with defendant within three or four days.

Mr. Parker proposed to show by this witness that Burns had made an admission as to the time when he arrived in Boston.

Mr. Dana objected on the ground previously stated, that the prisoner's admissions should not be used against him; and further that the admission could not be used as rebutting testimony.

Mr. Thomas argued that the main question was that of the identity of Anthony Burns. Is the person at the bar the same who is described in the record and by the testimony? He held that the evidence was conclusive on the point, and that said Burns owed service and labor to Col. Suttle, the claimant; and the witness offered was merely to show that Burns had admitted the fact.

These points were alternately discussed at some length by the respective counsel.

The Commissioner ruled for the present, that the admissions of the prisoner might be taken in the form of rebutting evidence, and to the point of identity, as going to show that he was not in Boston on the 1st of March.

Witness proceeded. The conversation with Burns was in the room in this building where he was confined; I was appointed a deputy by the marshal to take charge of him.

Mr. Ellis remonstrated against any admissions, made under such circumstances, being received.

Mr. Parker thought they were competent, unless it could be shown that undue influences had been exercised upon the prisoner's mind.

Mr. Dana quoted from North Carolina decisions, that in the alleged relation of master and slave, the latter's statement could not be taken as testimony under any circumstances. Mr. D. made a spirited address to the Court, asking that an end might at once be put here to the idea of petty officials worming out of the unfortunate victims under arrest in such cases, matter that shall be prejudicial to his legal rights.

The Commissioner ruled that the testimony might be admitted if it were shown that no intimidation, threats or hopes were exercised to call forth the admissions. The witness was re-sworn for this purpose by the Commissioner, and was then specially examined by Mr. Dana.

Mr. Drew, re-sworn. I was sent for by the Marshal on Wednesday evening of last week, when the arrest of Burns was made; the message stated that he wanted to "use me;" I did not know the object till I came to the office. [Witness gave the names of several other persons employed by the Marshal.] Was not armed till Friday night, and am not now; have pistols and swords in the room where prisoner is kept; Col. Suttle visited the prisoner on Wednesday night; the conversation with Burns, referred to, was on Friday or Saturday; had a good deal of talk with him; did not hear him told that he would have to go back to Virginia; when he first came in he was a little intimidated; he has since been perfectly calm and in every way well treated; have heard no one say anything intimidating to him since; have talked with him on various subjects, about life in Virginia and in Massachusetts; Burns can both read and write; he has been furnished with the newspapers, and also with oysters, candy, &c.; even when attempts at rescue were feared, I heard no one tell him if he kept still it would be better for him.

Mr. Ellis argued that the nature of the circumstances surrounding the prisoner was an amply sufficient "intimidation" to exclude any of his statements from being considered as legal evidence.

Mr. Thomas replied, in an opposite view of the circumstances alluded to.

The Commissioner ruled the testimony given to be admissible.

Direct Examination, resumed. Part of the conversation with Burns was with reference to the time he had been in Boston; he said he had been here about two months—perhaps a little short; said that before that time he was in Richmond, Va. Had some talk about where he was born, and when he was born.

The Commissioner stated, in answer to Mr. Dana, that the evidence just given should only be considered as rebutting evidence to the defence, and not as new or corroborative for the prosecution.

Mr. Parker stated that the claimant would here rest his case. It was now 11½ o'clock.

R. H. DANA, JR., ESQ., proceeded with his closing argument in behalf of the prisoner. He congratulated the Commissioner upon his speedy relief from a long and tedious holding of a Court; the Commonwealth of Massachusetts, that she was about to be relieved from a most grievous *incubus*, the third with which she had been partially weighed down; the United States Marshal, that his former excellent character was about to be restored, by his being rid of his peculiar associates on this occasion, although it was to be feared that the return of the latter to their usual avocations might endanger the peace of the city, which had never been so safe as within the past few days except at the single point where these persons had been so numerously and "officially" congregated together.

He hoped the time had nearly arrived when the Court House could be again used for its legitimate purposes without the aid of the United States military force—when members of the bar and citizens obliged to attend Court need not be obliged to "pass muster" through the ranks of foreigners and hirelings of every sort whose gracious permission had to be conciliated.

It was an interesting and important fact that the very first case under the fugitive slave law was altogether *a mistake*—a mistake that placed a free man in a position worse than death itself, and only lacked consummation from the fact that the advantage given by the law was fortunately not availed of by the alleged claimant when he came to see the "property" which had been put in his keeping. This case was a similar one in some respects.

Mr. Dana here entered into an analysis of the evidence. There was a vagueness, an indefiniteness, a generality of description in the evidence for the claimant which could not establish a respectable claim to the possession of any piece of property—much less the prisoner at the bar. There was only a piece of paper, the real origin of which was not known, and the testimony of a single witness, a most important part of whose story is clearly shown to be absolutely false.

The evidence for the defence, on the other hand, was perfectly straigtforward, and the numerous witnesses plainly and fully corroborate each other. They prove in the strongest possible manner that Anthony Burns was at work for the Mattapan Iron Company at South Boston the first week in March, when it was solemnly sworn to by the slave-hunting witness that he did not escape from Virginia till the 20th of March.

No complaint or affidavit is brought from Mr. Millspaugh, to whom if anybody the slave legally "owed service and labor" on a lease, that he had escaped. They say he escaped in Capt. Snow's vessel, but they dared not summon the captain nor any living soul on board that vessel to show *what time* it was. They only resort to the meanest kind of evidence, that of the guard over the prisoner, to undertake to get in some confession from the admittedly intimidated prisoner that he had been here "about two months, and before that was in Virginia."

Brent swears positively that he saw Burns in Richmond on the 20th of March, but this piece of evidence was utterly overthrown if he means the prisoner at the bar. Yet no correction is attempted to be made. It was said that the man was willing to go back—if so what was all this parade of force for? We may expect a very "good time" truly, when next they get hold of a man who is not "willing to go back."

The Virginia Court record was fatal in its description of the man, if for nothing else. It merely sets forth that he is "dark complexioned," with a scar on his cheek and a cut across his hand. It does not state that he is a *negro* at all—and it is only of that race that slaves are manufactured. It does not state that he escaped from Virginia to this or any other State—he may, therefore, be still at sea, in Europe, or any where but here. If this record were good for anything, any dark complexioned man, having a scar and cut like those mentioned, was liable to arrest as Col. Suttle's slave.

All the evidence in the case was thoroughly reviewed in a masterly manner, and every point most ingeniously turned for the benefit of the prisoner.

The records were sifted, almost phrase by phrase, and flaws found to an indefinite extent. We have by no means attempted to give any connected synopsis, as our limits would not permit. Mr. Dana is still speaking as we go to press, and it is on all hands admitted to be one of the most powerful legal arguments he ever made, and one of the best efforts of his professional life.

DAILY ADVERTISER.

BOSTON:

THURSDAY MORNING, JUNE 1, 1854.

ADJOURNED HEARING

Before Hon. Edward G. Loring, Commissioner of the Circuit Court of the United States for the First Circuit and District of Massachusetts, in the case of Anthony Burns claimed by Charles F. Suttle, of Virginia, as owing labor and service to him in Virginia, and as having fled to Massachusetts.

Seth J. Thomas, Esq. and Edward G. Parker, Esq., counsel for the claimant.

Richard H. Dana, Jr., Esq. and Charles M. Ellis, Esq., counsel for the alleged fugitive.

WEDNESDAY, May 31, 1854.

The Commissioner took his seat at 9 o'clock, and proceedings were resumed at 20 minutes afterwards, the examination of the new witnesses brought forward in behalf of the claimant being resumed.

Erastus B. Gould: reside in Porter street, Boston; am a ship carpenter; have had the care of City Building for two years; know Jones the colored witness in this case; he was employed at work in the City Building on the 25th of March; he had no man with him, but had a couple of colored women; I am only at the building mornings and nights; my brother sent Jones to me on the date mentioned; never employed Jones myself.

Cross examined—My brother has the care of the Probate office building, and goes there nights and mornings.

Wm. H. Batchelder—Had a conversation with Jones; it was at the outside door of the Court House between 6 and 7 o'clock Monday evening. [Conversation ruled out.]

Benj. True—Have had a conversation with the prisoner within three or four days.

[Objection was made by Mr. Dana to admitting this conversation; after argument on each side the Commissioner assented to receiving it at present, and would consider the matter further.]

The witness proceeded to testify that the conversation took place in the room where Burns was confined; he was acting as a deputy marshal.

[Objection was again made, but the Commissioner ruled that the evidence might be received if there was no intimidation; no threats or promises.]

Witness proceeded—I was sent for by the Marshal on Wednesday evening of last week, when the arrest of Burns was made; the message stated that he wanted to "use me;" I did not know the object till I came to the office. Several other persons were employed by the Marshal. Was not armed till Friday night, and am not now; have pistols and swords in the room where prisoner is kept; Col. Suttle visited the prisoner on Wednesday night; the conversation with Burns, referred to, was on Friday or Saturday; had a good deal of talk with him; did not hear him told that he would have to go back to Virginia; when he first came in he appeared in some trepidation; he has since been perfectly calm, and in every way well treated; have heard no one say anything intimidating to him since: have talked with him on various subjects, about life in Virginia and Massachusetts; Burns can both read and write; he has been furnished with the newspapers, and also with oysters, candy, &c.; even when attempts at rescue were feared, I heard no one tell him if he kept still it would be better for him.

[Further objection was made, that the circumstances implied intimidation. The Commissioner ruled that the witness might continue.]

Witness continued—Part of the conversation with Burns was with reference to the time he had been in Boston; he said he had been here about two months—perhaps a little short; said that before that time he was in Richmond, Va. Had some talk about where he was born and when he was born.

The Commissioner stated, in answer to Mr. Dana, that the evidence just given should only be considered as rebutting evidence to the defence, and not as new or corrobative for the prosecution.

Mr. Parker stated that the claimant would here rest his case. It was now 11½ o'clock.

Mr. Dana, after a short pause, began his closing argument in behalf of the alleged fugitive.

He congratulated the Commissioner, Marshal and the State on the approach of the conclusion of the case. He reviewed the history of cases of rendition under the fugitive slave act of 1850, and pointed out that the very first case, that of Gibson, was a mistake, and dwelt upon the danger of mistake in this case. Jones was unimpeached—his testimony is supported by Mattucks, Drew, Whittemore and others, who all agree that the prisoner was in Boston early in March. This is proved beyond reasonable doubt. Brent's testimony is that the man who escaped was in Richmond on the 20th of March. The date is material. Why is no affidavit from Millspaugh produced? Why is not the captain of the vessel brought in? The absence of such testimony is a confession of weakness The few words uttered by the prisoner himself should be allowed no weight whatever. If Burns was willing to go back, why was he seized by six strong men? Mr. Brent's testimony should be received cautiously, for he is liable to bias in a matter like this which is considered a point of honor between Virginia and Massachusetts. He is clearly mistaken in the date of the escape—he may also be mistaken in the identity of the man.

Mr. Dana objected to the mode of proceeding adopted by the counsel for the claimant. The act contemplates two modes, one in § 6 and one in § 10.—The counsel have combined these, and so invalidated both.

The Statutes of Virginia require proof of descent from a slave to prove a man a slave. The counsel for the claimant seem to have attempted this, and have not succeeded.

They say that the slave was in Virginia on the 19th and was missing on the 24th. This does not prove that he escaped. Then they bring in admissions of the prisoner that he escaped but his admission does not prove anything of the kind.

They then put in the record, but that record is not receivable according to the 10th section of the Act. That section provides for a different tribunal. They bring merely parole proof. I ask your honor to hold that record to its strictest construction.

But how are they to get over their own testimony? The record says he owed service to Mr. Suttle, but their testimony shows that he in reality owed service to another person.

This record says also that he escaped, but the testimony shows that he did not escape. Can the record stand under such circumstances?

The record does not even say that the prisoner is a negro, simply a person of "dark complexion." Now, a record that does not describe a genuine negro better than that, cannot be received. The omission is fatal.

There are all sorts of people with "dark complexions." There is nothing in it which decides whether he is either black or white.

The record does not say that he escaped into another State. They endeavor to prove here by parole testimony that he did escape into another State, but there is no evidence in the record to that effect.

If they mean to rely upon the record, they will certainly fail. Your Honor has no right to grant a certificate without proof of escape into another State and there is no evidence in the record to that effect, and you can act only under this record.

The statute requires that a man must have escaped into this State, and this the record does not do. It does not pretend to be a transcript of a judgment even; only a recital of the application of Charles F. Suttle, and a direction that certain things proved should be entered upon a record, but where is the record; this record is not a record, but a direction to record. According to Brent's testimony, Burns does not owe service to Suttle, but to the mortgagee. Nor is it proved that the man ran away; he may have come here with Millspaugh's permission.

Mr. Dana urged objections to the constitutionality of the law, quoting the late Robert Rantoul, Jr. He concluded by bearing testimony to the patience and liberality of the Commissioner and the fairness and kindness, with which he had extended to the alleged fugitive in the time of his exigency, peril, stupefaction and intimidation, the opportunity for defence. The eyes of the nation are upon the Commissioner. The law should be administered with strictness; and if the claim for service be not proved, freedom must be presumed.

Mr. Dana spoke about four hours, and an interval of twenty minutes was then allowed to Mr. Thomas.

At four o'clock Mr. Thomas began his argument in behalf of the claimant.

He also had congratulations to offer on the approach of the close of the case. After but little preliminary, he urged the points of the case. Col. Charles F. Suttle asks not that the Commissioner pass judgment upon his ultimate rights to the service of Burns, but that he grant the certificate, which will suffer him to remove Burns to Virginia, without obstruction. The record of the Alexandria Court support his claim, provided the prisoner is the man described therein. The statute expressly provides that the record shall be conclusive. The only point remaining is, the identity of *this* Anthony Burns now in Court, with *the* Anthony Burns who, it appears by the record, escaped from Virginia, owing service to Col. Suttle. This point is conclusively settled by the testimony of Mr. Brent, who has known Burns ever since he was 14 years of age. The description given in the record is sufficiently exact. The prisoner corresponds remarkably with the description. No other man could be found in Boston to fit the description better. The name, too, is a proof of identity. His own counsel call him Anthony Burns. Prayers in his behalf are offered for Anthony Burns. It was Anthony Burns who escaped.

But it is contended that this Anthony Burns was in Boston March 1, while Col. Suttle's Anthony Burns was in Richmond March 20. Mr. Thomas did not hesitate to say that he regarded Jones's story as coined—manufactured for the occasion. He was supported only by those into whose minds he had thrown the suggestion that the prisoner was the negro who worked with him, and by Mattucks who had equal reasons for joining the deceit. Both were interested in making out a case. Mr. Thomas went at length into the testimony, laying open weak places in Jones's story.

There is a discrepancy somewhere: Burns could not be in two places at once. Twenty such witnesses as Jones would not outweigh one such as Brent.—Brent speaks of the identity of a man he has known for years. The other witnesses speak of a negro that they have seen at most a few days, some only a few minutes.

The complaint is a matter of not the least consequence. The alleged fugitive may be seized without any complaint. But suppose the complaint errs in the date of the escape: the great facts of the escape and the service due remain. An intelligent and accurate man may easily forget a date: but his recollection of the identity of a person whom he has often seen, is not the less reliable. I know your honor so well that I could not mistake you on meeting you anywhere: and yet I might easily assign a wrong date for our last interview.

Even according to Jones's story, Burns was a stranger when he came here. Else why did he go round with him, take him home, &c. I honor Jones for his hospitable conduct: but it shows the man to have been a stranger. Where did he come from? If he came from Canada, or Cincinnati, it would easily have been proved. He must have come from a slave State. He says himself he came from Richmond, Virginia. The precise date of his arrival is immaterial.

We have thus four distinct and complete grounds on which to rest our claim, (1) the name of the man, Anthony Burns; (2) the description in the record which the prisoner answers; (3) the testimony of Brent; and to make all sure we have besides (4) the admission of the man himself.

It is said his admission ought not to be credited. But if he were not really a slave, why should he admit it? Suppose him really a freeman, unjustly seized: while he is in confinement, Col. Suttle, a man whom he would not know at all, enters, and forthwith he admits that he is a slave! The idea is absurd.

The record is conclusive: not because the Constitution says full faith shall be accorded the judicial proceedings of other States, but because it directs that fugitives from service and labor shall be given up. Congress has the right to prescribe what shall be competent evidence in U. S. Courts; and Congress in the fugitive slave act has prescribed that the record shall be final and conclusive.

The point made on the other side regarding the difference between the 6th and 10th sections, simply amounts to this, that we have done more than is absolutely necessary. The case of Sims is a precedent for our mode of proceeding.

Mr. Thomas ridiculed the idea of introducing an affidavit from Millspaugh. Affidavit to what? The identity? Millspaugh has never seen the man here. The service due? We have better evidence of that than an affidavit. The escape? The fact that the man is here, and is claimed, shows that.

This proceeding, although not strictly "preliminary" does not affect the right or title of Col. Suttle to service from Burns. The Virginia Laws allow suits for freedom to be brought by slaves against their masters, and provide for the payment of the expenses of such suits from the public treasury. The Commissioner's certificate will allow Burns to be carried back to Virginia and nowhere else. If he is carried anywhere else—which it is not likely he will be—it will not be by authority of that certificate.

Mr. Thomas said he would not go at length into the constitutionality of the fugitive slave law, for that must be regarded as established beyond all doubt. Our own Massachusetts Supreme Court has affirmed it. He would simply read from Story's commentaries a brief extract upon the subject.

In conclusion he said that if a case had not been made out to the reasonable satisfaction of the Commissioner in support of the claim, he would order the discharge of the prisoner. Col. Suttle himself desired nothing more. He defended the right and duty of counsel to act for clients under the fugitive law. The duty might be disagreeable but it was a duty. The law was not to be regarded as an idle mockery. He expressed his confidence that the majesty of the law would be sustained: and that whatever might be the determination of the Commissioner, it would be a just and righteous determination.

Mr. Thomas spoke a little more than two hours.

It being past 6 o'clock, the usual hour for adjourning, the Commissioner said that he could not render a decision in a case burdened like this, with weighty questions of law, and a serious conflict of testimony, without a careful review of the whole. He regretted that the excitement could not be immediately allayed, but could not give a hurried decision. The Circuit Court would come in Thursday, and he accordingly adjourned the hearing to Friday morning at 9 o'clock.

THE FUGITIVE SLAVE CASE.—The hearing in the fugitive case was continued yesterday from 9 in the morning until after 6 in the evening, without adjournment. The hopes which the testimony of the previous day in behalf of the alleged fugitive had excited, can scarcely be maintained. Nothing farther was advanced on that side. If Burns actually was in Boston from the 1st to the 20th of March, it is somewhat remarkable that the fact can only be shown by a few chance interviews.

The closing arguments on each side were made with great ingenuity and ability. We give in another column as full a report as our limits will allow, which, however, scarcely does them justice.

The Circuit Court comes in today, and the room cannot thus be used for the hearing. Tomorrow the Commissioner will come in again and render his decision, which is anxiously awaited.

Commonwealth.

Boston, Thursday, June 1, 1854.

MORNING EDITION.

The Fugitive Case.

It will be seen by our report, that the Commissioner's Court is adjourned until Friday, when the decision will be given. It is the general opinion that Judge Loring will feel compelled to discharge the prisoner. We hope that this will be the result. The conspirators are alarmed, and violently angry at the turn affairs have taken, and it is feared that new attempts will be made to reduce Burns to slavery, with the law, if possible; against the law, if necessary. The kidnappers and their counsel are desperate, and may resort to extreme measures. But we rejoice to say that the public sentiment of Boston, sound and healthy in the outset, has for the last day or two become almost unanimous against the vile attempt to convert the city into a hunting ground for slaves. Scarcely a man is now to be found who does not denounce the whole proceeding.

Many of our leading merchants have signed a petition for the repeal of the infamous statute under which these outrages have been carried on, and a public meeting is talked of to express the opinion of this class of our citizens. The tools of the slave-catcher, especially Hallett, Parker and Thomas, are universally despised, and the military officers, many of them, and the police, are weary and disgusted with the wretched work which they have been incidentally required to aid. If illegal violence is attempted, or if a new warrant is obtained, it will be very difficult to restrain the popular indignation, which is every moment increasing in its intensity. We sincerely hope that the end of this week may see the slave-catchers driven away, defeated and disgraced, and that Boston may never suffer the injury and ignominy of another Fugitive Slave case. It has had enough of them.

THE COURT HOUSE. We hear that the Judges of the Supreme Court are justly indignant at the recent proceedings within the walls of the Court House. Some of them declare that they will not hold Court in a building filled with armed men, as it does not comport with their views of the calm and dignified administration of the law, to hear cases amidst the excitement produced by the prostitution of the Temple of Justice into a slave pen.

A judge of one of the Courts informs us that his entrance to the building was resisted at the point of the bayonet by a marine on guard. As he was about to order the county officers to open the wide doors of the building on the Court street end, so that he could gain admittance to his own room, he was recognized by a civil officer, and thus was able to pass the military guard.

MORE UNITED STATES TROOPS.—The Marshal, acting under special directions from Washington, not only keeps the United States troops quartered in the Court House, in outrageous violation of the laws of this State, but on Tuesday brought in a reinforcement from the Navy Yard at Portsmouth, N. H. The Boston *Times* says, the order for them was sent "yesterday at 12 o'clock, and at 7, P. M. they were here and quartered in the Court House;" and the *Post* says, "the whole country is looking to see how Boston will come out of this struggle." These mouthpieces of the slave power, acting on the assumption that SLAVERY IS KING, do not hesitate to sustain this rascally violation of the laws of Massachusetts. If they had any respect for LAW, or any regard for public sentiment in this State, they would not sustain this outrage to the laws, which our garrisoned Court House presents to all beholders.

The Constitution of the United States declares that in all trials for crime, and in all cases where a question of property to the amount of twenty dollars is involved, the trial by jury "shall be preserved." These principles are spurned and trampled under foot by that infernal fugitive slave bill, which the army and navy are employed to execute. United States troops have no more right to be quartered in the Court House of Suffolk county, than Watson Freeman has to officiate as Governor of Massachusetts; but they are there, in defiance of law and right, to sustain the trampling out of these principles. A law of this State says, our public buildings shall not be used by the officials of the general government, as jails; but, in defiance of this law, and in utter scorn of public sentiment, these officials transform our Court House into a slave jail,—a fortified Bastile of the slave power.

And yet these Boston mercenaries of the slave power, these "pliant and degenerate Greeks," despised while used by that power, have the audacity to talk as if they were supporting "the Constitution and laws," while sustaining this hellish invasion of both.

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The Abolition Demonstration Against the Fugitive Slave Law.

The city for a day or two past has presented an unwonted spectacle—one as disheartening for the moment, as it is repulsive, to those who can have little sympathy with the doctrines of the ultra Abolitionists among us. This class of agitators, since the passage of the Nebraska bill, appear to have become infuriated and reckless beyond all precedent and example—eager for an opportunity to give an exhibition of their worst temper and embittered feeling against the South—and unfortunately an opportunity presented itself, at a moment most desired by them—most undesired by others. A fugitive from service is arrested under a law of Congress, and taken into custody by an officer of the federal government—and what have we since seen? A meeting is held in Faneuil Hall, at which OPEN

AND FORCIBLE RESISTANCE to the execution of the law is recommended by gentlemen of high, social and literary position, and the rescue of the alleged slave is urged by them upon the audience as a high and PATRIOTIC DUTY. There is no equivocation—no cowardly hesitation in the language they employ to counsel forcible resistance. They speak out with a boldness which implies earnestness of purpose, and even reduce the utterances of their lips to the deliberate sentences of written resolves. The master-spirits of the demonstration, among the audience, became excited to the highest pitch by the earnest appeals and counsels of the master-spirits on the platform. They are determined—bent on mischief, regardless of all consequences, though they may lead to anarchy and bloodshed. They rush from the Hall to the Court house, where, in the darkness of the night, an organized mob attempts the rescue of the prisoner confined there. Having just been counselled by the rioters that he must not and shall not be carried from the city—that his trial is a mockery, an outrage not to be tamely submitted to—they are PREPARED with such appliances as will accomplish their purpose if any can do it. The door is beat down and an entrance attempted, but successfully resisted. Pistols are fired—knives and bludgeons are brandished, and at last a citizen of Boston is stabbed or SHOT dead at his post, while in the discharge of his duty under the orders of the United States officers. The State military are called out and kept on duty with loaded muskets to preserve order—and Government troops are marshalled into the city, to prevent a forcible resistance to a laws of the United States. The military are still on duty, and the metropolis may be said to resemble at this moment a garrisoned city which in time of war defends itseif against attacks from without, rather than one which in time of peace and prosperity has or should have nothing to apprehend from attacks from WITHIN.

At the time of Shadrach's rescue, Mr. Webster, as Secretary of State, thanked the Mayor of the city, in behalf of the President, for the assurance that prompt measures had been taken to prevent the recurrence of any such demonstration. "If, (he wrote) this event shall arouse the attention of all good citizens to a sense of the dangers to be apprehended from the INCULCATION OF SUCH DOCTRINES as have been spread abroad in the country. tending TO SHAKE THE AUTHORITY OF ALL LAW, TO UNSETTLE SOCIETY, and to absolve men from all civil and moral obligations; and shall put them on their guard against the FURTHER DIFFUSION OF SUCH PERNICIOUS SENTIMENTS, it may in the end, be productive of happy results." The results, if we may judge from the demonstation now in progress, so far from having been fortunate, have been disastrous—and to an extent hardly foreseen by the sagacious statesman. The doctrines condemned by him as so pernicious, are at this moment preached with more boldness and recklessness than they were three years since. They are not only announced from the rostrum, and from an occasional press and pulpit, with a new infusion of bitterness and denunciation in the hearts of those who utter them, but a determination is also avowed to carry them out by force. There is as much true conservatism in the community as ever, and as little disposition in the popular mind to give its assent to the factious, lawless and disorganizing doctrines of the ultra agitators as at any previous period. But circumstances have to some extent favored this class, till they have at last become bold, impudent, and reckless almost beyond belief—preachers of doctrines which, if carried out, would bring upon us revolution and anachy. No one can read over the speeches made at the Faneuil Hall meeting, on Friday night, and the resolves adopted by it without, in his own mind, holding their authors responsible as the immediate instigators and perpetrators of the outrages which followed. The annals of ultraism or fanaticism, within our own borders at least, may be searched in vain for a parallel to the atrociously incendiary utterances of the meeting in question. The repeal of the Missouri Compromise—however unpalatable it may be to the Abolitionists or others, affords no justification for the proceedings which have resulted in the shooting down of a citizen of Boston. They can go the length of petitioning for the repeal of the Compromise under which the Fugitive Slave Act became the law of the land—but not of forcibly resisting that law while it stands. That is to say—they cannot do so as good citizens—who are loyal to the Constitution of the United States. The action of their leaders in such a case as that now presented—they do not seem at this moment to consider—does not affect themselves only, but the entire community—the great mass of the people who are quietly pursuing their business, as well as the few who sympathize with themselves.

The duty of the good citizen, when laws, state or national, are passed, which do not command universal assent, is plain and clearly defined. It is to acquiesce in them, to sustain them, and discountenance a violation of them. On no other principle of action could the republic prosper or the community, organized each under its own constitution, and the whole under the greater and paramount federal charter—hold together in peace and fraternal concord. The only remedy which the citizen has against the evils resulting from the operation of unpopular laws, whether depriving him of his natural rights and priviliges, or his property, lies in the law-making power itself. He can demand their repeal and give his labor, and it may be the labor of years, to the accomplishment of the great purpose of his heart. This is his undisputed right—his inalienable privilege at all times. It is one that is not denied to him or modified in view of the fact that what is regarded by one individual or one section as an unjust and oppressive law, may be considered quite the reverse by another individual, or another section. But his action or conduct should be in correspondence—and if he be a loyal citizen—one who loves the Union and the particular commonwealth of the sisterhood of States composing it—to whose keeping his interests are more immediately entrusted—who respects and sustains the government of each and the government of the whole—his first impulse and his last resolution will ever be to

yield SUBMISSION TO THE LAWS, WHILE THEY STAND AS LAWS, at whatever peril or sacrifice. The love of law and order—united with a determination to prevent anyforcible resistance to the statutes of the land—is too firmly seated in the breasts of the citizens of Boston, and of Massachusetts, to admit of their countenancing for a moment the insurrectionary doctrines so earnestly inculcated by the abolition orators, and so disastrously enforced on the steps of the Court House. All good citizens should unite in opposition to such demonstrations and lend their aid to the proper authorities in putting down unpatriotic, if not treasonable designs against the peace and best interests of the community. That they are ready to do so, the events of the last day or two afford abundant evidence, and we trust and believe that the crisis is passed and that the worst is over.

Incidents of Monday.

On Monday morning, about eleven o'clock, the Union Guards, Capt. Brown, who had been on duty all day Sunday, were relieved by the Boston City Guard, Capt. French. After 12 o'clock on Sunday night, up to noon on Monday, all was quiet around the Court House, although a large gathering of people was present.

Worcester Delegation--Meeting at the Meonaon.

At half past twelve a number of persons marched in procession around the Court House, bearing at their head a blue silk banner, on which was inscribed, "Worcester Freedom Club"—"True to the Constitution and the Union." It appears that a delegation of about 200 individuals came down from Worcester to "wateh the proceedings," and marched from the depot to Court square, where their numbers were much increased by additions from the crowd. Their advent in the square was hailed with cheers and shouts, and having quickly marched around the building they proceeded to the Meonaon Hall under the Tremont Temple, where an informal meeting was held, Dr. Oramen Martin, of Woreester, appearing to preside.

William Lloyd Garrison and one or two other personages, had made somewhat exeited addresses to the meeting, when Mr Stephen Foster of Worcester, the well-known non-resistant lecturer was called upon, and addressed the meeting. He said that his peace principles were well known to most of those present, and as he had but lately arrived at the cene of action, he could not be expected to give advice as to what was to be done,—that was for the meeting to decide He, however, would go with the rest. If it was deemed advisable to make a demonstration to-day, he was ready to go as far as his poor physical health would permit. He thought, however, that as the forces of the Government were disciplinced and organized, it would, perhaps, be futile to make any present attempt at a rescue. He was for organization in every city, town, village and hamlet in the State, so that if this present out age is to be consummated, it shall be the last.

A person by the name of Hanscom next spoke to the meeting He stated that a committee had waited upon Governor Washburn to urge him to insist with all the power he could command, upon the serving of the writ of personal replevin that has been issued in the case of Burns, but disregarded by the United States Marshal. The speaker stated that in case the Governor did not order his troops to back up the writ, there was a Coroner of Suffolk county who would make the attempt, provided he had force enough to make the trial effective. The speaker then called upon all those in the meeting who were ready to form a *posse comitatus* to assist the Coroner in the execution of the writ, to rise in their places. A large number of persons arose, but on the speaker's calling their attention to the serious nature of the service required, many of them again sat down.

Secret Committee

A motion was then made that a committee of three be appointed to go among the audience and take the names of those willing to serve. This motion however was objected to, on the ground that there was already existing a vigilance committee who were the ones to report to, if to any

Many persons then inquired where the committee were in session, and who they were. The Chairman replied that their names must be kept secret, but he would vouch that they were active and courageous men.

It seemed then to be generally agreed that those disposed, should hand in their names to the committee, who it was stated were convened in a room under the office of the Superintendent of the Temple, and a partial movement was made in that direction, when Hanscomb stated that unless an applicant was vouched for, as one engaged in the cause and known to be true, he could not be admitted The enrolment we suppose was carried on, as persons were continually moving in the direction of the room, one at a time being admitted.

During the meeting cheers were given for various individuals, among others, for his Excellency Gov. Washburn, for whom six cheers were given, upon the assurance from the Chairman that that functionary was with them in spirit and sentiment.

One of the speakers urged immediate action, as "delays were dangerous" and stated that a steamer was kept fired up at the end of India Wharf to carry off Burns as soon as he is given up.

The Banner Seizure.

The Worcester delegation, after the meeting broke up, marched back to Court square, and paraded once round the Court House and were proceeding to repeat the route, when Deputy Chief Ham assisted by two or three officers, took possession of their banner and placed it in the Police Station. No resistance was made to the seizure, and the parties who were carrying it about left the square after their loss Subsequently about 5 o'clock, one of the delegation, named Thayer, who is a lawyer in Worcester, went into the Station and requested that the banner might be returned, and upon his solemn promise that it should not again be unfolded in this city, nor until it reached Worcester, Deputy Chief Ham delivered the same to him, furled.

Instead of doing this, however, about quarter past five o'clock, the same banner was displayed in front of the Court House, and in quick time it was torn in shreds by a portion of the crowd. The staff was deposited in the Chief's office.

Court square was cleared by the Police at about 6½ o'clock, and a man named James H. Fowler who refused to move off was arrested and locked up He however was shortly released, when he at once went back into the crowd where his excited speech and action quickly led to his second incarceration.

Arrest of Mrs. Hinckley.

The woman, Hinckley, who we have already noticed, reappeared in the morning and urged in vain her rightto admission inside of the Court House. She left apparently disgusted with the officers, but returned in the afternoon, and after a vain urging of her suit, she sat down on the Court House steps and proceeded to read a volume which she brought with her. At the dispersion of the crowd she became violent in her behavior and was carried to the lock-up and detained about two hours and was then released. She is apparently a very respectable lady, and evidently is acting upon principle—she would make no promise as to her future behavior on her release. Caleb A. Webster of Salem and —— Wright of South Boston were also locked up for haranguing the crowd.

A gentleman by the name of Judd, who resides in Watertown, was arrested by the Police, and somewhat needlessly beaten by them at the time. He was subsequently set free.

Deputation to the Mayor.

Shortly after 8 o'clock a deputation from the Worcester delegation waited on the Mayor, and complained to him of the action of the Police in the matter of the destruction of their banner. His Honor assured them that the Police had no hand in the matter, but that the deed was done by the outsiders. The delegation shortly withdrew. We understand that the Bay State Club have tendered the U. S. Marshal 1500 men, to enforce the law

The Independant company of Cadets, Lieut. Col Thomas C. Amory, and the Boston Light Dragoons, Capt. Isaac

Hull Wright, were ordered out by Maj. Gen Edmands, and reported themselves These companies, together with the City Guards. Capt. French, who are stationed in the City Hall, and the Washington Artillery, who are quartered in the Armory of the Light Guards in School street, constituted the State Military force on duty yesterday.

Inquest on the Body of Mr. Batchelder.

Coroner Smith at 4 o'clock commenced holding an inquest in the case of James Batchelder, the U. S. special officer who was killed during the riot on Friday night last. By advice of the District Attorney, the testimony will not be made public until the inquest is concluded, which may not be for some days to come.

We learn from good authority that various parties and Clubs in Worcester county and city have held meetings and voted to come to Boston to watch the proceedings of the case now pending.

Circumstances of the attempted Purchase of Burns.

The following explanation of the attempted negotiations for the manumission of Anthony Burns, the alleged slave, on Saturday, is furnished by Mr. Edward G. Parker, one of the counsel for the claimant:—

At the time of opening the hearing before Commissioner E. G. Loring, in the case of the alleged "fugitive from service and labor," Anthony Burns, I was told that if the claimant would consent, $1200 could be raised within five minutes, to buy the freedom of said Burns. I advised with the claimant, and he consented, provided it were done forthwith. I then myself drew up a paper for subscriptions therefor, to wit: buying the freedom of said alleged slave. Subsequently I drew up another paper of similar character, for the Rev. Mr. Grimes, the colored clergyman, but I told him, and assured him, over and over again, that the whole matter must be fully arranged and completed absolutely forthwith and certainly that day, or the claimant would be released from all assent to the agreement, which he had only made, to show that he was not harshly disposed towards the boy Anthony Burns. At 8 o'clock P. M. in the evening, only $800 had been raised. Knowing then that the matter must be very speedily consummated, if at all, I took another subscription paper and went with other gentlemen to the houses of several persons, to ask their contributions; telling them no time was to be lost. Finally, about 11 o'clock at night, a citizen of Boston put into my hands a check for $400, payable to my own order, expressly stipulating that I should not endorse it unless the freedom of said Burns was obtained that night.

Both the counsel for the claimant then went immediately to the office of the Commissioner who issued the warrant. Here a deed of manumission was drawn. The said Commissioner and both the counsel then went to the United States Marshal's office to complete the discharge of said Burns. It wanted about a quarter of twelve o'clock when we arrived at the Court House. Some discussion then ensued between all parties, the United States Commissioner, the United States Attorney, and the counsel for the claimant, as to whether it would be necessary for the claimant to be brought down in person, to entitle the Commissioner to discharge said Burns, and also as to the protection of the United States Marshal from the costs of all the military and other extra expenses in case of a voluntary discharge of the person claimed. The statuatory costs, although the claimant had not agreed to pay them, it was understood there would be no difficulty about. Before these two matters could be arranged, the *clock struck twelve* I then told the Rev. Mr. Grimes that, inasmuch as the money was raised before twelve o'clock at night, I thought the claimant ought not to retire from the bargain unless the parties withdrew the proffered money. The next morning being Sunday, the last mentioned check of $400 was *withdrawn from me by the drawer* thereof. This wholly absolved the claimant from his agreement. And now, the claimant being advised thereto by many lovers of law and order, declines to negotiate further until it is established that the supremacy of the law can be maintained.

Repeal Petition

The following petition was on Monday placed in the Merchants' News Room:—

To the Honorable Senate and House of Representatives, in Congress assembled.

The undersigned *Men of Massachusetts* ask for the repeal of the act of Congress of 1850, known as the *Fugitive Slave Bill.*

Dated at Boston, May 29, 1854.

The petition was signed by John H. Pearson, Francis B. Fay and many others of our most prominent merchants. At 9 o'clock there were 90 names appended to the paper.

At 11 o'clock last night but very few persons were lingering around the Court House, and all was quiet. No arrests were made last night

Food for the Military Force. Some difficulty was experienced on Saturday last in procuring refreshments for the Boston companies under arms. The eating houses in the vicinity of the Court House were overwhelmed with business, and could only furnish food for the force in the pay of the United States Marshal. Mr. Smith, the caterer, (himself a fugitive,) could not induce his colored assistants to work in preparing refreshments for the troops. One or two of his men, however, whose liberty had been purchased by the aid of their military friends, exerted themselves to the utmost in repaying this kindness.

Our military friends and all others can but honor that manly sentiment which dictated the course of those ignorant and poor colored men, in refusing to work for those who were called upon by the authorities to bear arms. [Transcript.]

Incidents of Tuesday.

The crowd around the Court House was much smaller Tuesday than it has been during any of the preeding days of the excitement, and good order and quietude has very generally prevailed. At the City Hall, the City Guards were relieved at an early hour, by the Roxbury Artillery. The Mechanic Infantry and the Boston Light Dragoons were also under arms yesterday. The examiation of the rioters will be found in our police report.

The Banner Seizure Again.

Mr. Adin Thayer, of Worcester, the excited individual who was the standard bearer of the "Freedom Club" of that city, publishes a card, in which he denies that he promised not to again display the banner in Court square, in case it was retored to him by the police. We learn at the police office, from the deputy Chief, that Thayer *did* make the promise, and that it can be abundantly proved. As to the second seizure and destruction of the standard, our statement in yesterday's paper that the police had no hand in the matter, is strictly correct. We give, however,

The Other Side of the Story.

It was stated by Mr. Stephen S. Foster, of Worcester, in the anti-slavery meeting yesterday afternoon, in answer to a sort of a taunt thrown out by one of the Boston agitators (whom Mr. S had been decrying as lacking in spirit,) that the Worcester people, after all their talk, had allowed their banner to be wrested from them without a struggle. That the Worcester people adjourned from Meonaon Hall on Saturday, with the understanding to meet again in Court square, and that the signal for meeting was to be the erection of the banner. The standard was accordingly raised, but instantly, before any of its friends had time to rally around it, it was seized by the police and forcibly carried off from the person having it in charge. Mr. Thayer, continued he, subsequently went into the police station, and *demanded* the standard, and it was rendered up

Afterwards, on its being carried into the square, it was assaulted and torn, but not without a desperate resistance on the part of its followers; one of whom, said Mr. S., a colored man, had the satisfaction of soundly belaboring the head of one of the minions of the law with the staff, before it was given up.

It was also stated that an action would be commenced against the officers, for their unlawful action in the matter of the seizure

Struggle in the Court House.

About noon, yesterday, Mr. Albert G. Browne, the father of Albert G Browne, Jr., (one of the rioters who is under arrest for the murder of James Batchelder,) attempted to force his way up stairs in the Court house; he was repulsed by the United States troops who are on guard, and was ejected from the premises. He resisted most stoutly, and his shouts of rage and his startling cries of murder! murder!! resounded all over the house, creating quite a general stampede of officers and others to the scene of the struggle. Mr. Browne showed a pass from Marshal Freeman, but it was disregarded.

Arrival of More Marines.

Yesterday afternoon a company of 30 U. S. Marines under command of Capt. W. F. Young, arrived in the city from Fort Constitution, Portsmouth, N. H.

Guard in the Court House. On Tuesday we alluded to the rudeness and uncalled-for violence of certain officials in the Court house, by which members of the bar and of the press were repulsed with bayonets. It gives us pleasure to say that no such orders were given by Marshal Freeman, Peter J. A. Dunbar, Esq., or Capt. Rich, of the Marine Corps; these gentlemen have extended every civility and courtesy possible under the circumstances to all who had business in the Court room. The violence of which we complained was by *petty* officials who showed by their manners a lack of common courtesy and a total unfitness for their office. We will say in reference to the Marines under command of Capt. Rich that they

RICHMOND EXAMINER.

FRIDAY MORNING, JUNE 2, 1854.

The Case of Tony.

On a Yankee schooner that sailed from this city a few months ago, there embarked (we suppose as cabin passenger) a stout, hale, hearty negro fellow by the name of TONY, belonging to CHAS. F. SUTTLE, of Alexandria. The object of the trip on TONY's part, seems to have been simply to see the world. Of the purposes and motives of the crew of the craft in taking him hence, we know nothing, and are left to very natural conjecture.

Mr. SUTTLE last week proceeded to Boston for the purpose of reclaiming his property, having learned that TONY had thoroughly satified his curiosity and desired to return home.

On Wednesday of last week, TONY (*alias* ANTHONY BURNS, in Boston) was quietly met in the streets of that city and taken into custody by the federal Marshal of the District. He was taken forthwith before one master commissioner LORING, where, amongst other things, the following conversation occurred in the legal examination that ensued:—

Mr. Suttle (to Tony.) Have you not always received kind treatment from me?

Tony. Yes.

Mr. Suttle. Have I not always permitted you to go where, and work for whom you pleased?

Tony. Yes.

Mr. Suttle. When you was sick, did I not give up my own bed that you might be made as comfortable as possible?

Tony, (affected to tears). You did, master; you did, kind master.

Mr. Suttle. Do you want to go back to Virginia?

Tony. I do.

Mr. Suttle. Will you go back?

Tony. I will. I want to go to-day. I'm good deal happier at home.

The affair soon got wind in Boston, and the newspaper paragraphs, and telegraphic dispatches from that city, given in our last Tuesday's and today's issues, tell the history and sequel of TONY's case. The latest accounts of the legal proceedings consist chiefly of perjured statements of a large number of suborned witnesses in support of Mr. WELLER's favorite plea of "*halibi.*"—This last phase of the case is peculiarly Bostonian. They have little regard for the Gospels there, and seem to have a charter as illimitable as the winds to swear to what they please; provided it be in behalf of runaway negroes, and in overthrow of the laws and Constitution of the Union.

The advices we publish show with what high hand the Boston people are playing the game of treason. They present the Athens of America in the character of a Zoological Garden—a den of wild beasts. We doubt if the flat-boats of the Mississippi, the pirate islands of Texas, or the hells of California, deserve a more unenviable reputation for cut-throat violence and rowdyism than puritan Boston. In these, but one class of characters—vagabond, ignorant, depraved, desperate outlaws—are actors. In Boston, men of education, influence, position, eminence in the community, carry bowie-knives, revolvers and sword-canes, howl like drunken rowdies in the streets, and shoot and stab each other in *melees*.

The ringleaders in these disgraceful proceedings invoke the name of humanity and of Almighty God. In the name of humanity—they endeavor to rescue a negro who beseeches his master with tears to take him away from their company. In the name of humanity they shoot down in his tracks an innocent man, who happens to be called upon by an officer of the law to aid in its execution. In the name of humanity they murder a white man with wife and children dependent upon his labor, to help an idle negro vagabond to escape from labor. In the name of humanity they keep a black runaway vagrant unwillingly in Boston, and send a respectable white man reeking with blood out of the world. Such is Boston humanity. Boston bravery, Boston heroism consists in crowding by thousands together upon one victim and assassinating him under the cover of numbers.

Boston Abolitionists profess sincerity and sanctity of purpose in these violent proceedings.

Let us see how the case stands on this score.—The "Reverend" THEODORE PARKER, last Sunday, "preached" at Music Hall. His "sermon" is given in another place. This was the introduction and topic of his discourse:

To all the Christian Ministers of the Church of Christ in Boston:

Brothers: I venture humbly to ask an interest in your prayers and those of your congregations, that I may be restored to the natural and inalienable rights with which I am endowed by the Creator, and especially to the enjoyment of the blessings of liberty, which, it is said, this government was ordained to secure.

ANTHONY BURNS.

Boston Slave Pen, May 24, 1854.

Did the "preacher" believe that document a genuine paper, from the hand of the negro in the Court House? Was it TONY's idea to date from "Boston Slave Pen," or that of the reverend forger of the epistle? Was it TONY's language—that about the "natural and inalienable rights with which he was endowed by the Creator"? Was it TONY's piety that prompted a request for the prayers of the congregrations of Boston in aid of his "natural and inalienable rights"? Did the "preacher" believe this prayer anything but the baldest and vilest piece of forgery? There is but one answer to these questions. This sincere, upright, consciencious apostle PARKER knew as well that it was a gross forgery and falsehood he was palming upon his hearers, as he knew that TONY was locked up in the Boston Court House. Yet this "preacher"—on the Sabbath, from what he styles a pulpit—read the forged and blasphemous epistle to a deluded congregation; prayed God Almighty to grant a request, which he knew as well as his Maker knew, was counterfeit; and made the infamous fraud a text for his Sabbath's discourse. It is not within the scope of our purpose to criticise his "sermon", or of language to properly characterize the profanity of his whole conduct. Let the reader note in what terms of commendation this "minister of the Gospel" alludes to WANDELL PHILLIPS, the denouncer of the Bible. If ours were an age for miracles, the earth would have opened and swallowed up such a monster of profanity as THEODORE PARKER, on Sunday last.

It was Sunday morning that this counterfeit piece of piety was presented to the congregations of Boston, in the name of TONY. But Sunday afternoon TONY was swearing in jail like one of the army in Flanders. The Boston *Mail* has an account of the prisoner that evening.

We had an interview, says the *Mail* of Monday, with many others, last evening at 7 o'clock, with Burns. He was quietly looking out of the window on the north side of the Court House, smoking a segar. We asked him "how he felt?" He said he felt "*dam well*, except a lame side, occasioned by looking out of the window for the gratification ob de crowd, so anxious to see de great star ob de 'casion." Peter Dunbar, jr., a special officer on this occasion, said—"Anthony, why didn't you go out to ride with me this afternoon, as I invited you?" "O," said he, "they could not spare us both at one time; if I went you would have to remain." "Sensible to the last," said Dunbar.

The *Mail* gives a full account of what transpired in this interview; but reports no remarks of TONY upon the "natural and inalienable rights" of runaway negroes, or "the objects this government was ordained to secure," or the "christian ministers of the Church of Christ in Boston."

These proceedings in Boston, disgraceful as they are to that city, afflicting as they are to the heart of the patriot, are neither unusual nor especially ominous to the Union. They are what the country has long been accustomed to witness in that locality. They do not signify any increase of incendiarism over what has long been prevalent in Boston. It is industriously attempted by Northern newspapers and abolitionists, in and out of that city, to palm this riot and assassination upon the country, as the result of the passage of the Nebraska Bill, and as proof of a higher excitement and more determined and wide-spread spirit of resistance at the North, to the Constitution and the laws of Congress, than ever before existed. But these Boston outrages evidence no such thing.—They are the work of WENDELL PHILLIPS, THEODORE PARKER, GARRISON, WADE, CHASE, GIDDINGS, and the black and white men who have been laboring with them in the cause of treason, for many years. In reply to the threats of abolition Senators, that such outrages would be the result of the passage of the Nebraska Bill, Mr. DOUGLAS said, bravely and truly, in his closing speech on the subject, last week:

It is not the first time you have advised resistance to law; you have stimulated violence, and then shrunk from the dangers which accompanied its consummation. By your speeches you encourage mobs, you instigate rebellion, you stimulate violence, and then shuffle off the responsibility upon others, and leave your simple, unfortunate instruments and tools to bear the odium, and in some cases suffer the penalty of the law for crimes which you caused to be committed. After the announcements and threats which have been made in the course of this debate to-night, I am prepared to say to the Senator from Massachusetts (Mr. Sumner) and his confederates, you are responsible for every act of violence that shall be committed, in pursuance of the line of policy you have indicated. Every murder that shall be committed, every drop of blood which shall be shed, every crime that shall be perpetrated, must rest with all its guilt upon your souls; and I only regret that the penalty of the law cannot fall upon the heads of the instigators instead of the instruments who suffer themselves to be acting under their advice.

These Boston outrages are not consequences of the passage of the Nebraska bill; and cannot be used to frighten members of Congress from the North who supported it, into repentance, tribulation, and back-sliding. Treason festers in Boston, and has its periodical eruptions.—TONY'S arrest presented the occasion for a breaking out; and TONY'S arrest was the doing of a Southern man who went in search of his property without any reference to the parliamentary position of the Nebraska bill. Five slaves were reclaimed in New York simultaneously with the enactment of the bill, and with the mob and murder in Boston. The outrages there are but a repetition of the affair of SHADRACH and the CRAFTSES. They signify no new indignation, and evidence no violent *shock* of public sentiment at the North from the repeal of the Missouri Compromise.

The Boston riot and murder can get no dignity or national consequence from the Nebraska law. They must stand like tubs upon their own bottoms. The riot was only a riot. The murder was a foul disgraceful murder. Boston now is the Boston it was in the last war with Great Britain; that it was when SHADRACH was rescued; the same law-breaking, seditious Boston. New York has out-stripped her in commercial growth; has wrested from her the sovereignty of American commerce; has reduced her to the condition of a province and suburb. She cannot control the commerce of the country. She has long lost all influence in the politics of the country. She cannot achieve an enviable fame in the paths of rectitude or in the lists of honorable emulation. She surrenders herself to misanthropy, and has become the fanatical embodiment of Envy and green-eyed Jealousy. In treason, in infidelity, in all that the patriot abhors and the christian revolts at, Boston has no peer. She loved ELLEN CRAFTS more than she loved the Constitution. She sent SHADRACH to Canada—the African's burying-ground—that she might boast of her triumph over the laws of the land. She now assassinates young BATCHELDER in cold blood, and sends his white young wife and infant children to beg and starve upon her uncharitable streets, in order that the black vagrant, TONY, may smoke his segar in triumph and get along "*dam well*" among her abolitionists and white girls.

RICHMOND EXAMINER.

Tremendous Riot!

United States Marshal Shot Dead!—Military called out—Militia in Arms—Riot still Unchecked!

BOSTON, May 27.—A terrible and most disgraceful riot occurred here last night. After the meeting at Faneuil Hall, where the people became excited to a high pitch, by inflammatory Abolition speeches, crowds collected in squads at the corners of the streets, which soon ripened into a furious mob, who attempted to arrest Burns, the alleged fugitive slave. A desperate conflict ensued between the rioters and authorities, in which the Deputy U. S. Marshal was shot, and died in a few minutes. Several others were seriously, and some, it is feared, fatally injured. The excitement continued all night, but the mob failed in rescuing Burns. The military were ordered out at 9 o'clock

this morning, who up to this hour have maintained order. The militia are also under arms, and every effort is making to maintain the peace. The examination of the case is now going on, and the Court House is surrounded by at least five thousand persons, independent of the military. The excitement is intense, and it is feared that the end is not yet. Business is almost entirely suspended, and the whole city disturbed.

[SECOND DESPATCH.]

BOSTON, May 27, 12 M.—The examination of the fugitive Burns still continues, and the excitement increases. Several of the rioters have been arrested and held for trial. A detachment of the U. S. Marines, under Lieutenant Bird, are on duty in the interior of the Court House, parading the halls, passage-ways, &c. The multitude outside continues to increase, and has now swelled to probably ten thousand, and increasing. Mayor Smith addressed them, and after which the riot act was ordered to be read.

[THIRD DESPATCH.]

BOSTON, May 27, 12¾ P. M.—James Batchelder, is the name of the U. S. Deputy Marshal who was shot. He leaves a wife and an interesting family of children to lament his untimely end.

The entire watch and police of the city are on duty.

The Independent Cadets of Boston, and the Boston Light Infantry under Captain Rogers, are quartered in the City Hall. Col. Wright's company of Light Dragoons are also on hand, and others are preparing to come out.

The more moderate opponents of the Fugitive Slave Law denounce the meeting last night.

The counsel of Burns, the fugitive, has asked for a continuation of the examination until Monday.

The doors and windows of the Court House, where Burns was supposed to have been confined, were broken in last night.

It is rumored that special trains of cars have brought in large numbers of mobites from the surrounding towns.

The regular military force of the city is still out, the militia are under arms, and the police of the city are in action.

The excitement among the people in the city is still great, but partially subsiding.

BOSTON, May 27—9, P. M.—Nine rioters have been committed for the murder of Batchelder. All is now quiet, but the troops are still on duty.

The report now is that money will be subscribed to buy the fugitive.

BOSTON, May 28.—Col. Suttle, the owner of Burns, offers to sell him for $1200, and the money for that purpose has nearly all been subscribed.

Theodore Parker and Wendall Phillips, have applied to the authorities for protection from the Irish who threaten to take revenge upon them for the death of Batchelder, the officer who was killed on Friday night.

The streets are crowded and the military are under arms.

The U. S. Marshal called to his aid the United States troops stationed at Fort Independence, and sent a message to that effect to President Pierce, in reply to which he returned the follywing emphatic answer:

"*Your conduct is approved. The law must be executed.*"

Fugitive Slave Case.

We announced a few days ago that Anthony Burns, a fugitive slave, belonging to Mr. Charles F. Suttle, of Alexandria, Va., who ran away in March last, was arrested in Boston, on Wednesday evening last. On the following day he was brought before U. S. commissioner Loring, when Mr. Brent testified as follows:

I reside in Richmond, Va.; am a merchant; have resided there four years; know Mr. Charles F. Suttle; he now resides in Alexandria; he is a merchant; know Anthony Burns, (witness identified the prisoner as Burns;) now see him at the bar in front; he is the man referred to in the record which has just been read; he is owned by Mr. Suttle as a slave; he was formerly owned by Mr. Suttle's mother; Mr. Suttle has owned him for the last fifteen or twenty years; I once hired Anthony of Mr. Suttle; this, I think, was in the years 1846, '47 and '48; paid Mr. Suttle for his services; know that he was missing from Richmond on or about the 24th day of March last; have not seen him since till a day or two past. Last night I heard Anthony converse with his master.

After some remarks from the counsel, the case was postponed until Saturday morning. Burns, it appears, manifested a desire to return home with his master.

His only object in leaving at all appears to have been a species of curiosity, which being thoroughly gratified, he desired to return. His representations are that he has always been well treated, and well cared for in every respect. He reached Boston by water from Richmond, where he was employed.

During the examination several of the abolitionists were in Court. Among them Garrison, Theodore Parker, Wendell Phillips, Mellen, Lanson, Abby Kelly and others. On the outside of the Court House were many colored people, but there was no unusual excitement at that time.

The numerous fanatics of Boston, however, could not permit the occasion to pass without a demonstration, and a meeting was called to assemble in Faneuil Hall, on Friday night. The call attracted hundreds more than could get inside the building. The principal speakers were, Wendell Phillips, Theodore Parker and Francis W. Bird. The tenor of the speeches was highly inflammatory—denouncing the fugitive slave law as one which should not be obeyed, and counciling open resistance. The Post of Saturday morning says:

The meeting was presided over by George R. Russel, of Roxbury, supported by a list of vice presidents of the most unquestioned abolition stamp. Speeches were made by F. W. Bird of Walpole, remarkable more for his slang than for his eloquence or elegance; by John J. Swift, a young man very full of wrath, who told the people they must not let the slave be carried out of Boston—that there was no law to keep him, because the passage of the Nebraska bill had inflicted 113 stabs on the fugitive slave law, and it was too late to talk about compromise, and giving the audience the assurance that he should always be on the side of liberty; by Wendell Phillips, who would have the slave set free in the streets of Boston, and congratulating the audience that the city government was with them, which had instructed the police not to interfere; that to-morrow will show whether we will do our duty; that there is no law in Massachusetts, and the sovereignty of the people must begin; that the audience must keep their eyes on the fugitive, and never lose sight of him in the street, but be on perpetual guard; that Boston must redeem herself of the stain for allowing Sims to be carried back, and concluded by reiterating his caution to keep his eye on them; and by Theodore Parker, who commenced by calling the audience "fellow subjects of Virginia," because there is no North, the line of the South running away to Canada; that there are two laws, the slave law and the popular sovereignty; that Boston once resisted the law on the ground that what was not

just was not law, and arguing that they were bound to resist the law and rescue the slave, moving that when the meeting adjourn it adjourn to meet in Court Square the next morning at 9 o'clock.

Vociferous cries were raised of "To-night! to-night!" and Mr. Parker, after vainly endeavoring to bring the audience to adopt his motion, moved that they go to the Revere House and call upon the slave-catchers to-night. The mob spirit seemed to be up, which the ones who had conjured it would fain allay, and Phillips again took the stand to endeavor to throw the aid of his eloquence on the troubled waters. His appeal was that they would defer every thing till to-morrow, when he would go with them and rescue the slave in broad daylight. It was in their power to block up the doors so that they could not get him off. The best men sympathised with their cause; what they called the best men, for he counted them the best men who were ready to trample law under their feet. They would injure their cause with such men by violence, and a zeal that would not keep till morning would never free a slave.

He was here interrupted by a voice from the gallery, stating that a mob of negroes had assembled in Court Square, and were attempting a rescue, moving that the meeting adjourn, which was immediately acted upon, and the immense mass proceeded to Court Square.

During the evening a series of inflammatory resolutions were offered by Dr. S. G. Howe, which were not adopted, in the excitement of the stampede. The greatest confusion reigned throughout the meeting, and all the elements of mobism seemed to be at work, evincing themselves in answers to the appeals of the speakers.

Boston, May 29th.—The fugitive, Burns, was brought into court this morning, heavily ironed and closely guarded. No persons, except lawyers and reporters, were admitted into the room without a written pass from the U. S. Marshall. An immense crowd is gathered outside, which maintains the utmost quiet.

The State military will protect the city property, while the U. S. troops will protect the fugitive.—The general impression is that any attempt at rescue will end in a bloody failure, and therefore a mob is not anticipated.

SECOND DISPATCH.

Boston, 12 M.—The case of Burns commenced at 11 o'clock, in the presence of a dense crowd. Wendell Phillips and Theodore Parker were present.

The counsel for the defence protested against proceeding with the case under the extraordinary circumstances surrounding them.

At this juncture, a procession of some six or eight hundred men, from Worcester, carrying a banner upon which were inscribed the words "Worcester Freedom Club," marched into Court square amid tremendous cheers. The confusion occasioned by this event interrupted the proceedings of the Court for a moment.

The counsel for the fugitive then resumed his speech amid great excitement, protesting against the outrage upon law and order, as manifested by filling the court house with armed men.

He therefore protested against the case being further considered.

The U. S. Attorney replied, stating that the conduct of the fugitive's friends had made the presence of the military necessary.

After some wrangling between U. S. Attorney Hallett and Commissioner Loring, the examination was finally proceeded with.

THIRD DISPATCH.

Boston, May 29—8 P. M.—After the examination of the witnesses for the claimant, the record of ownership of Burns, the fugitive, by Col. Suttle, was produced. The court then took a recess.

At four o'clock the proceedings were resumed, when Mr. Ellis, as counsel for Burns, proceeded in defence, continuing the argument until six o'clock, when the court adjourned until to-morrow morning.

The "Freedom Club" from Worcester having attracted considerable attention, and some cheers, one of the leaders attempted to address the crowd from the Court House steps. He was seized by the police and conveyed to the station house.—Subsequently the Club marched around the Court House, and in attempting to repeat the movement, their banners were taken from them, and the Club dispersed.

The crowd about the court-house at five o'clock this evening could not have been less than ten thousand.

The Light Dragoons are on duty to-night, awaiting orders, and the military generally seem disposed to do their best to enforce the law.

The City Guards and Independent Cadets are also on duty. Two companies are quartered at the City Hall for the night. The United States troops remain in the court house.

The Mayor and Aldermen held a meeting this evening, but transacted very little business. The Aldermen were nearly unanimous in favor of dismissing the military, but the Mayor has sole power, and disagreed with them.

FOURTH DISPATCH.

Boston, May 29, P. M.—The members of the "Worcester Freedom Club" assembled at Tremont Temple to night, where inflammatory addresses, tending greatly to the increase of the excitement, were made by Garrison and others.

Dr. Mitchell, of Worcester, presided, and seemed much excited. He called for volunteers to aid one of the Boston coroners, who was willing to serve a writ of habeas corpus to take Burns from the United States Marshal, provided he could be sure of sufficient aid. Very few were willing to sign their names to an agreement to that effect, though a large number rose in their seats to the call.

Cheers were given for Gov. Washburn, and a number of other public functionaries.

At 9 o'clock the vicinity of the court-house is quiet. Much credit is due to Mayor Smith and the Chief of Police Taylor, for their well-directed efforts to preserve the peace of the city during this exciting day.

The following anonymous circular, widely circulated through the country towns on Saturday and Sunday, no doubt had the effect of bringing many ill-disposed characters to the city to-day:

"Boston, May 27, 1854.—To the yeomanry of New England!—Countrymen and Brothers!—The vigilance committee of Boston have to inform you that the mock trial of the poor fugitive slave has been further postponed to Monday next, at 11 o'clock, A. M. You are requested, therefore, to come down and lend the moral weight of your presence and the aid of your counsel to the friends of justice and humanity in the city. Come down, then, sons of the puritans; for even if the poor victim is to be carried off by the brute force of arms, and delivered over to slavery, you should at least be present to witness the sacrifice, and you should follow him in sad procession, with your tears and your prayers, and then go home and take such action as your manhood and your patriotism may suggest. Come, then, by the early trains on Monday, and rally in Court square.—

Come with courage and resolutions in your hearts, but, this time, with only such arms as God gave to you."

Mr. Batchelder, when killed on Friday night, was standing near the court-house door which was battered down. He attempted to stem the tide from without, when he was stabbed and shot.—There was a wound on his head, and also several wounds in his abdomen, one probably by a knife and the other by a pistol, which a person comes forward and testifies was fired from the crowd.—The wife of the unfortunate man knew nothing of his death until Saturday morning, when the announcement was made to her by a lady who saw the account of the occurrence in the morning papers. She chanced to be in the front yard, and immediately fainted and was taken into the house. He leaves no children.

Several balls have been found embedded in the ceiling of the entry-way where the attack was made. The door battered down was quite a powerful one, and bears unmistakable evidence of the determination and energy of those who attacked it from without.

Charles H. Nicholas, George Smith, Edward E. Thayer, James Nolands, John Jewell and William Jackson are the names of the persons arrested on Saturday, charged with inciting a riot. The nine previously arrested are to have an examination to-morrow.

We continue the account, as received through the newspapers of Boston, and by telegraph, relative to the proceedings in and out of Court, in the case of the fugitive Burns. Also, an interesting correspondence, giving a condensed history of the case to date.

Services at the Music Hall.

From the Boston Commonwealth, May 29.

There was an immense audience at the Music Hall, yesterday, to hear Rev. Theodore Parker.—There was a general expectation that he would have a "Lesson for the Day," and the vast hall, with its double tier of galleries, could not contain all the people who sought admittance. Mr. Parker delivered a short extempore discourse on the subject uppermost in all minds, which we give in full. He then delivered a short discourse on another subject. When he rose to pray he read the following:

"Anthony Burns, now in prison, and in danger of being sent to slavery, most earnestly asks your prayers, and that of your congregation, that God would remember him in his great distress and deliver him from this peril.

"From the Rev. Mr. Grimes, and Deacon Pitts, at Burns' special request."

He said, in substance, (we cannot give his language precisely,) that this was the old form of such requests, but he did not like it. It seemed to ask God to do our duty. God was never backward to do his work, and we should do ours. He could not ask God to work a miracle to deliver Anthony Burns; although if He should see fit to do so it should be accepted with propersentiments of reverence and gratitude. He had received the same request in another form, which he liked better, and read as follows:

"To all the Christian Ministers of the Church of Christ, in Boston:

Brothers: I venture humbly to ask an interest of your prayers and those of your congregations, that I may be restored to the natural and inalienable rights with which I am endowed by the Creator, and especially to the enjoyment of the blessings of liberty, which, it is said, this Government was ordained to secure.

Anthony Burns.

Boston Slave Pen, May 24, 1854."

The following is "A Lesson for the Day," delivered at the Music Hall, Sunday, May 28, 1854, by Rev. Theodore Parker:

The discourse which followed his "Lesson for the Day," was on the war now agitating Europe, and the unprincipled spirit of the men who hurry us into another war to aggrandize the Slave power, but he had some allusions to the present state of things in Boston. Here is one of them:

"Boston is in a state of siege to-day. We are living under military rule, in order that we may serve the spirit of Slavery, and Boston is hunting ground for the South who respects us so much!—Our Nicholas is a Virginia Kidnapper. Our ruler is a Judge of Probate."

SUTTLE REFUSES TO SELL BURNS.

From the Boston Commonwealth of Monday.

Mr. Parker, Suttle's counsel, stated before the Commissioner, Saturday, that he was willing to sell Burns for his fair market value as a slave.—Endeavors were accordingly made to rescue the man by paying the claimant's price for him. Suttle agreed to give him up for $1,200. This sum was raised immediately; but then he averred that he must also have all the expenses paid; and finally said that he was counseled not to give the man up at any rate. We hear that the Commissioner advised him to conclude the arrangement for the sale that had been agreed on, and that Mr. Hallett used his influence to prevent it; and also that Suttle has received a dispatch from Virginia, urging him to take the man back at any rate.—The gentlemen who sought to buy off the claimant were in consultation on the subject until midnight, Saturday. When the result was known, the following handbill was put in circulation:

"THE MAN IS NOT BOUGHT!—HE IS STILL IN THE SLAVE PEN IN THE COURT HOUSE.

"The kidnapper agreed, both publicly and in writing, to sell him for $1,200. The sum was raised by eminent Boston citizens, and offered him. He then claimed more. The bargain was broken. The kidnapper breaks his agreement, though even the United States Commissioner advised him to keep it. *Be on your guard against all lies.* Watch the Slave Pen. Let every man attend the trial. Remember Monday morning at 11 o'clock."

We stated, Saturday, that this man-hunt in Boston was deliberately contrived, and intended as an outrage to the principles and feelings of men in the Free States, to be perpetrated by way of jubilee over the passage of the Nebraska bill. This was said at one of our hotels, Friday evening, by a gentleman from Northern Virginia, and was told to us by the gentleman to whom he said it, and whom he seems to have mistaken for a Southerner. The final refusal to sell the man plainly confirms this statement.

Boston, May 30.—The examination in the case of the fugitive slave, Burns, was resumed this morning, the fugitive having been brought in heavily ironed, and guarded by U. S. troops.

The court room is not so excessively crowded as it was yesterday. The throng assembled outside is also less numerous, and the excitement has apparently subsided considerably.

The case has gone over until to-morrow. The excitement is subsiding.

The examination of the eleven persons arrested on the charge of riot and of murdering Batchelder has been postponed till Friday next. The Police Court was crowded when the prisoners were brought in.

Mr. Ellis, counsel for the defence, introduced his testimony. The first witness swore most positively that he saw Burns, the alleged fugitive, in Boston, on the 1st of March, and employed him on

the 4th at Mattapan Iron Works, South Boston. His testimony was confirmed by Mr. Drew, the book-keeper at Mattapan Iron Works.

Both witnesses were closely cross examined, but their testimony remains unshaken. The testimony so far is convincing that Burns was in Boston three weeks before the date of his escape, as alleged in the complaint. The general opinion is that he is really the slave of Suttle, but that a fatal error in date has been made in the complaint.

James G. Whittemore, a member of the common council, and formerly director in the Mattapan Iron Works, Stephen Mattocks and B. M. Gilman, employees at the same works, and John Favor, a master carpenter, all testified positively to seeing Burns in Boston before March 8th.

The three first named notice particularly the marks by which the claimant professes to identify him. Horace Brown, a police officer, formerly employed at the Mattapan Works, testified to the same effect. The testimony for the defence here closed, and the court adjourned till to-morrow.

Nelson Hopewell, a negro, the supposed murderer of Batchelder, has been arrested. On being conveyed to the watch-house, a loaded revolver and a dirk-knife were found upon his person. The blade of the knife was *stained with blood.* Suspicion was aroused that he might be the murderer of Batchelder, and upon examining the wound of the deceased, it was found that the cut was made by a weapon like that taken from the negro.—Batchelder, just as he breathed his last, said: "I'm stabbed." Taken in connection with the fact that Hopewell was seen in the midst of the mob on Friday night, guilt enters upon him with double force. It is stated that there are other evidences bearing strongly against Hopewell.

The Boston *Advertiser* states that on Saturday, Rev. Theodore Parker was asked if he wished to put his name to the subscription paper to purchase the fugitive. His reply was: "*I have nothing to subscribe but brains and bullets.*"

It is stated that the Marshall has been advised from Washington that the expenses incurred in protecting his prisoner are not to be assessed upon the claimant. The whole amount of the costs of the case cannot thus exceed two hundred dollars.

Boston, 29.—A petition to Congress for the repeal of the Fugitive Slave law was placed in the Exchange Reading Room to-day, and has already received a large number of signatures, including many well known merchants, who, a few years since, were among the most prominent and active upholders of the law. The feeling of the community against the rendition of Burns is growing deeper, and is controlled only by respect for the laws of the land.

Boston, May 31.—The trial of Burns is progressing. The prosecution are offering rebutting testimony to prove that Burns was not in Boston before the 8th of March, as stated by witnesses for the defence; that being the time of his escape, as alleged by his owner. There is more excitement to day, and a larger crowd around the Court House. Mr. Dana is now closing for the defence.

Boston, May 31.—The argument in the case of Burns has closed, and the decision has been postponed till Friday next.

Should Burns be given up, it is said he will be put on board the U. S. revenue cutter Morris, and taken to Alexandria.

Whittier, the poet, has written a lettter deprecating the course of the rioters.

At the meeting of the anti-slavery society yesterday, it was resolved that resistance to slave-hunters and slave catchers is obedience to God; and H. C. Wright, one of the speakers, said he would rejoice to see the commissioner laid dead on the bench by a dagger in the hands of Burns.

[illegible] of 46 marines from Portsmouth

Courier

FRIDAY, May 26.

An Alleged Fugitive Slave Arrested. Pursuant to a warrant issued on Wednesday, by United States Commissioner Edward G. Loring,—authorizing the arrest of Anthony Burns, a negro, an alleged fugitive from the "service and labor" of Charles F. Suttle, a merchant of Alexandria, Va.,—the United States Marshal apprehended, on the evening of that day, at the corner of Brattle and Court streets, the person named in the writ. Burns was noiselessly conveyed to the Court House, where he passed the night in the keeping of the Marshal. Yesterday morning, at nine o'clock, the United States Marshal made return of his doings to the Commissioner, who proceeded to investigate the case. Messrs. Seth J. Thomas and Edward G. Parker appeared as counsel for the claimant: and Messrs. Richard H. Dana, Jr., Charles M. Ellis and Robert Morris volunteered as counsel for the alleged slave. The official papers—embracing the customary powers of attorney,&c., from the Court in Alexandria—having been read, Mr. Parker read the complaint, of which the following is a copy:—

United States of America: Massachusetts District ss.
To the Marshal of our District of Massachusetts, or to either of his Deputies,

Greeting.

In the name of the President of the Umited States of America you are hereby commanded forthwith to apprehend Anthony Burns, a negro man, alleged now to be in your District, charged with being a fugitive from labor, and with having escaped from service in the state of Virginia, if he may be found in your precinct, and have him forthwith before me, Edward G. Loring, one of the Commissioners of the Circuit Court of the United States for the said District, then and there to answer to the complaint of Charles F. Suttle of Alexandria, in the said state of Virginia, merchant, alleging, under oath, that the said Anthony Burns, on the twenty-fourth day of March last, did, and for a long time prior thereto had owed service and labor to him, the said Suttle, in the state of Virginia, under the laws thereof; and that while held to service there by said Suttle, the said Burns escaped from the said state of Virginia into the said state of Massachusetts; and that said Burns still owes service and labor to said Suttle in the said state of Virginia; and praying that said Burns may be restored to him, said Suttle, in said state of Virginia, and that such further proceedings may then and there be had in the premises as are by law in such cases provided. Hereof fail not, and make due return of this writ, with your doings therein, before me.

Witness my hand and seal, at Boston aforesaid, this twenty-fourth day of May, in the year one thousand eight hundred and fifty-four. EDW. G. LORING, Commissioner.

—

United States of America, Boston, Massachusetts District ss., May 25, 1854.

Pursuant herewith, I have arrested the within named Anthony Burns, and now have him before the Commissioner within named, for examination.

WATSON FREEMAN, U. S. Marshal.

The first witness introduced was William Brent, who deposed as follows:—

I reside in Richmond, Va.; am a merchant; have resided there four years; know Mr. Charles F. Suttle; he now resides in Alexandria; he is a merchant; know Anthony Burns; now see him at the bar in front; he is the man referred to in the record which has been read; he is owned by Mr, Suttle as a slave; he was formerly owned by Mr. Suttle's mother; Mr. Suttle has owned him for the last twelve or fifteen years. I have hired Anthony of Mr. Suttle; this I think was in the yeas 1846, '47 and '48; paid Mr. Suttle for his services. I knew that he was missing from Richmond on or about the 24th day of March last; have not seen him since until within a day or two past. Last night I heard Anthony converse with his master.

Mr. Dana here took occasion to say that he had not been regularly retained as counsel, and he addressed the Commissioner as follows:—

May it please your Honor,—I rise to address the Court, as *amicus curiae*, for I cannot say that I am regularly of counsel for the person at the bar. Indeed, from the few words I have been enabled to hold with him, and from what I can learn from others who have talked with him, I am satisfied that he is not in a condition to determine whether he will have counsel or not, or whether or not and how he shall appear for his defence. He declines to say whether any one shall appear for him, or whether he will defend or not.

Under these circumstances, I submit to your Honor's judgment that time should be allowed to the prisoner to recover himself from the stupefaction of his sudden arrest and his novel and distressing situation, and have opportunity to consult with friends and members of the bar, and determine what course he will pursue

Mr. Parker. I feel bound to oppose the motion. The counsel himself says that the prisoner does not wish for counsel,

and does not wish for a defence. The only object of a delay is to try to induce him to resist the just claim which he is now ready to acknowledge The delay will cause great inconvenience to my client, the claimant, and his witness, both of whom have come all the way from Virginia for this purpose, and will be delayed here a day or two, if this adjournment is granted. If it were suggested that the prisoner was insane, out of his mind, and would be likely to recover soon, we could not object. As it is, we do object.

Mr. Dana replied. The counsel for the prosecution misapprehends my statement. I did not say that the prisoner did not wish counsel and defence. I said that he was evidently not in a state to say what he wishes to do. Indeed, he has said that he is willing to have a trial. But I am not willing to act on such a statement as that. He does not know what he is saying. I say to your Honor, as a member of the bar, on my personal responsibility, that from what I have seen of the man and from what I have learned from others who have seen him, that he is not in a fit state to decide for himself what he will do. He has just been arrested and brought into this scene, with this immense stake of freedom or slavery for life at issue, surrounded by strangers—and even if he should plead guilty to the claim, the Court ought not to receive the plea under such circumstances.

It is but yesterday that the Court at the other end of this building refused to receive a plea of guilty from a prisoner. The Court never will receive this plea in a capital case, without the fullest proof that the prisoner makes it deliberately, and understands its meaning and his own situation, and has consulted with his friends. In a case involving freedom or slavery for life, this Court will not do less.

The counsel for the claimant objects to a delay; he objects on the ground of the inconvenience to which it will put the claimant and his witness, who have come all the way from Virginia for this purpose! I can assure him, I think, that he mistakes the character of this tribunal, by addressing to it such an argument as that. We have not yet come to that state in which we cannot weigh liberty against convenience and freedom against pecuniary expense. We have yet something left by which we can measure those quantities.

I know enough of this tribunal to know that it will not lend itself to the hurrying off a man into slavery, to accommodate any man's personal convenience, before he has even time to recover his stupified faculties, and say whether he has a defence or not. Even without a suggestion from an *amicus curiæ*, the Court would, of its own motion, see to it that no such advantage was taken.

The counsel for the claimant says that if the man were out of his mind, he would not object. Out of his mind! Please your Honor, if you had ever reason to fear that a prisoner was not in full possession of his mind, you would fear it in such a case as this. But I have said enough. I am confident your Honor will not decide so momentous an issue against a man without counsel and without opportunity.

Mr. Ellis urged the postponement on the ground of the importance of the issue. Commissioner Loring informed the prisoner that he was entitled to counsel, and that if he desired it, time would be given to afford him an opportunity to select them. Burns, who seemed somewhat amazed, at length muttered that he desired delay, and the further hearing of the case was thereupon postponed until Saturday morning. The usual order was issued to the Marshal to keep the prisoner in a place of safety, and the Court then adjourned.

There was a large number of persons in attendance in the Court-room—but there was not the slightest indication of disorder. Squads of colored men assembled in the vicinity of the Court House during the morning, but their deportment was orderly. An attempt probably will be made this evening to work up an excitement, as there is to be a "meeting of the people in Faneuil Hall to consider this matter."

Burns, who is about thirty years old, has for some time been in the employ of Coffin Pitts, clothing dealer, No. 38 Brattle street. He is a shrewd fellow, and the story of the manner of his leaving Alexandria is a piece of small cunning After acquitting his master of all suspicion of cruelty, he stated that leaving him was the result of accidents—that one day, while tired, he laid down on board a vessel to rest, got asleep, and that during his slumbers, the vessel sailed! Burns, at one time since his arrest, expressed a willingness to return with his master; but yesterday morning, he was induced by his advisers to make his claimants show their authority for his return.

Burns is closely guarded by United States officers, and any attempt to rescue him or to obstruct the due course of law will be fruitless.

SATURDAY, May 27.

The Fugitive Slave Case. The Abolitionists were on the alert yesterday, devising *their* schemes to secure the release of Antony Burns, the alleged fugitive slave. Mr. Seth Webb, Jr., instituted an action of tort (fixing damages at $10,000) against Charles F. Suttle, the claimant, and William Brent, "for that the said Suttle and Brent, on the 24th day of May instant, well knowing the said Burns to be a free citizen of Massachusetts, conspired together to have the said Burns arrested and imprisoned as a slave of said Suttle, and carried to Alexandria," etc., etc. Mr. Lewis Hayden, on oath, testified before Mr. Webb that he believed the "cause of [this action] is true and just." Deputy Sheriff Neale arrested Messrs. Suttle and Brent at the Revere House; but they forthwith gave bail and were liberated.

Mr Webb also brought an action against U. S. Marshal Freeman. The following is a copy of the writ of replevin, issued by Chief Justice Wells of the Common Pleas:—

Commonwealth of Massachusetts. Suffolk, ss. To the Sheriff of our county of Suffolk, or his Deputies, or either of the Coroners thereof, *Greeting.*

We command you that justly and without delay you cause to be replevined Antony Burns, who (as it is said) is taken and detained at Boston, within our said county, by the duress of Watson Freeman, that he the said Antony Burns may appear at our Court of Common Pleas, next to be holden at Boston, within our county aforesaid, on the first Tuesday of July next, then and there in our said Court to demand right and justice against the said Watson Freeman, for the duress and imprisonment aforesaid, and to prosecute his replevin as the law directs—provided the said Anthony Burns shall, before his deliverance, give bond to the said Watson Freeman in such sum as you shall judge reasonable, and with two sureties, at the Court having jurisdiction within your county, with condition to appear at our said Court, to prosecute his replevin against the said Watson Freeman, and to have his body there ready to be delivered, if thereto ordered by the Court, and to pay all such damages and costs as shall be then and there awarded against him. Then, and not otherwise, are you to deliver him. And if the said Antony Burns be by you delivered at any day before the sitting of our said Court, you are to summon the said Watson Freeman by serving him with an attested copy of this writ, that he may appear at the said Court to answer to the said Antony Burns.

Witness, Daniel Wells, Esquire, at Boston, the twenty-sixth day of May, in the year one thousand eight hundred and fifty-four. Joseph Clark, Clerk.

The writ was served by Coroner Smith, to whom the Marshal stated that he held Burns under an order of the U. S. Commissioner, and should not surrender him. Thus the matter ended for the present. Accompanying the writ was a bond, in which Messrs. Wendell Phillips, B. B. Mussey, Timothy Gilbert, Samuel E. Sewall and B E. Apthorp offered themselves as sureties in the sum of $5000 for the appearance of Burns at the Common Pleas Court.

After these proceedings during the day, the Abolitionists—men and women—met in large numbers in Faneuil Hall, in the evening. The crowd was immense, the excitement intense, and the speeches were inflammatory to an extraordinary degree. Before the arrival of the committee of arrangements, Father Lamson exercised the "liberty of speech" by a disjointed disertation on the rights of man generally. He was, however, summarily ejected from the platform at half-past seven o'clock, by Dr. S. G. Howe and others of the managing committee. Samuel E. Sewall, Esq, of the Suffolk Bar, called the meeting to order, and it was organized by the choice of George R. Russell of Roxbury as Presidents; Vice-Presidents—Samuel G. Howe, William B. Spooner, Francis Jackson, Timothy Gilbert, Francis W. Bird of Walpole, Rev. Mr Grimes, G B. Weston of Duxbury, T. W. Higginson of Worcester, Albert Brown of Salem, Chas M Ellis of Roxbury, Samuel Downer, Jr, and Samuel Wales, Jr. Secretaries—William I. Bowditch and Robert Morris.

The opening address of the President, Mr. Russell, was comparatively moderate. Although he did not counsel open violence, he denominated the officers of the law "mere slave catchers," and declared that "compromise is concession," and that "concession is degradation." He closed by introducing Mr. Francis W. Bird of Walpole.

Mr. Bird denounced the United States Marshal in a series of childish epithets, and then denounced one of the editors of the "Traveller," because he refused to adopt something which Mr. Bird had written, with regard to the condition of of Burns, as an editorial. He next proceeded to ask what this vast meeting was going to do for Burns? and some one answered, "Fight!—fight!—don't talk, but fight!" Mr. Bird answered that there was a time when that word "fight" meant something; but it meant nothing now. Thus he went on, in his feeble way, to excite the worst passions of his hearers.

Mr. John L. Swift plainly advocated violence. He, too, asked the meeting what it was going to do for Burns, and was answered "Fight," "fight," and thereupon he said—"That man has a right to his liberty! Why should he not be free? The people of the state sympathise with him—the people here are with him, and I thank God the city government is with him. [Tremendous cheering.] Benj. Seaver is Mayor [Cheers] no longer; neither is John P. Bigelow."

[Renewed cheering.] Mr. Swift, after saying that there was no law to justify Burns's detention in the Court House, hoped the word compromise would no longer desecrate true Americans. It had been once said, said he, that the Americans were cowards and the sons of cowards; if we allowed Marshal Freeman to carry off this man, we should be unworthy of any other name. He promised to go from the cradle to the grave of liberty, [the Court House,] and hoped that at that time there would be a resurrection of freedom. The present he described as a contest between slavery and liberty, and he for one was enlisted now and forever on the side of liberty These exciting sentiments of the young orator were hailed with shouts of approbation.

Dr S G. Howe (amid cries for "Phillips") took the platform, and asked leave to submit a series of resolutions. The cries were still continued for "Phillips," and Dr Howe said if they would hear his resolutions—as a sort of wadding—Mr Phillips would be forthcoming and furnish the bullets. This "compromise" was accepted and the following resolutions were then read:—

1. Resolved, That the People of Massachusetts having declared. in the first article of their Constitution, that "all men are born free and equal, and have certain natural, essential and inalienable rights; (among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing and protecting property; in fine, that of seeking and obtaining their safety and happiness;" and having also declared, in the seventh article of the same instrument, that "government is instituted for the common good; for the protection, safety, prosperity and happiness of the people—and not for the profit, honor, or private interest of any one man, family, or any one class of men);—are solemnly bound to stand by their declarations, come what may, by refusing to recognize the existence of any man as a slave on the soil of the old Bay state.

2. Resolved, That the perfidious seizure of Antony Burns, in this city, on Wednesday evening last, on the lying pretence of having committed a crime against the laws of this state—his imprisonment as an alleged fugitive slave in the Court House, under guard of certain slave-catching ruffians—and his contemplated trial as a piece of property to-morrow morning—are outrages never to be sanctioned, or tamely submitted to.

4. Resolved, That, (in the language of Algernon Sidney,) "that which is not just is not law, and that which is not law ought not to bo obeyed."

5. Resolved, That, leaving every man to determine for himself the mode of resistance, we are united in the glorious sentiment of our revolutionary fathers—"Resistance to tyrants is obedience to God."

6. Resolved, That, of all tyrants who have ever cursed the earth, they are the most cruel and beastly who deny the natural right of a man to his own body—of a father to his own child—of a husband to his own wife: whose traffic is in human flesh and broken hearts; who defend chattel slavery as a divine institution; and who declare it to be their unalterable purpose indefinitely to extend and forever to perpetuate their infernal oppression.

7. Resolved, That as the South has decreed, in the late passage of the Nebraska bill, that no faith is to he kept with freedom; so, in the name of the living God, and on the part of the North, we declare that, henceforth and forever, no compromises should be made with slavery.

8. Resolved, That nothing so well becomes Faneuil Hall as the most determined resistance to a bloody and overshadowing despotism.

9. Resolved, That it is the will of God that every man should he free; we will as God wills; God's will be done!

10. Resolved, That no man's freedom is safe unless all men are free.

The following resolutions, which were intended to form Nos. 3 and 11 of the series, were suppressed:—

3. Resolved, That when this meeting adjourns, it adjourn to meet in Court square, to-morrow morning, at 9 o'clock, to see that justice is done to all parties, and the honor of Massachusetts proudly vindicated.

11. Resolved, That the time has come to declare and to demonstrate the fact, that no slave hunter can openly carry his prey from the Commonwealth of Massachusetts.

Mr. Phillips was the next speaker, and he began his wild harangue by stating that he wanted Burns "set free in the streets of Boston." He assured the audience that the city authorities had given orders to the police not to "lift a finger" to aid the United States officers, and that if they did so they would be removed at once—and then exclaimed—"let us see whether we are worthy of our city government, whether we are willing to do the work." He pronounced the statement, that Burns had expressed a desire to return with his master, false—and then again urged his friends—"TO SEE TO IT THAT YOU RATIFY IN THE STREETS OF BOSTON TO MORROW, THAT ANTONY BURNS HAS NO MASTER BUT GOD." [Great Applause.]

Mr. Phillips declared the question now to be, "whether Virginia conquers Massachusetts. If that man (Burns) leaves Boston, Massachusetts is conquered." Mr. Phillips then cited the number of states in which rescues had been effected, and expressed the belief that there was not a state in the Union that would now allow the removal of a slave. To-morrow he said will decide whether Massachusetts will allow an alleged slave to be removed from her soil. He hoped his hearers would follow the precedent in the case of Shadrach, and throw aside the example in the case of Sims. Over and over again he called upon those present, after the adjournment, to form a perpetual guard around the Court House, so that *if this great sacrament of slavery is to be offered they might see it.*

He appealed to them in the name of Otis and of Adams to do their duty, and pledged himself to so behave in this case as to try to wipe off the stain laid upon Boston by the removal of Thomas Sims.

Rev. Theodore Parker began by addressing the audience as "fellow-subjects of Virginia," and said he would not call them "fellow-citizens" until they had shown that they were not subjects, ready to do any deed which Virginia commands. This excited loud applause, and thereupon the preacher said, "I have heard a good many hurrahs for liberty, and now I want acts." This ingenious hint was rightly interpreted, and there was a wild shout of approbation.

Mr. Parker reiterated that the police were not to interfere in the matter, and stated that Mayor Smith expressed his regret to Marshal Freeman that the man Burns had been arrested, and added that he (the Mayor) told the Marshal that all his sympathies were with the slave. (Great cheering)

Mr. Parker—"They think they can carry that man off in a cab."

A voice—"They can't do it." (Applause)

Mr. Parker advocated the higher law doctrine, and said "there is a means and an end; liberty is the end: sometimes peace is not the means to obtain the end." (Great applause.) The speaker said if his friends stood up manfully "to-morrow," Burns could be removed.

Several persons here cried out "to-night," "to-night," and thereupon Mr. Parker said "you know best." He then undertook to ascertain the sense of the meeting by a show of hands, and a scene of great tumult ensued. Cries were raised to "groan" the owner at his hotel, to which Mr. Parker responded in the affirmative.

Several persons here suggested that it would risk the "cause" if anything was done until morning, and in the midst of the greatest excitement Mr. Parker retired.

Mr Phillips again appeared and urged his friends to remember who and where they were, and said that nothing could he accomplished by "groans." He was opposed to any movement until morning, and said that if he "thought the *it* could be done to-night, he would not go to the Court-House." When he resisted he would do it in the sun light. To act otherwise than in open day, would be to descend to the degree of a mob, and that he would not do It was in the power of those present to block every avenue to the Court-House, and thus prevent the removal of Burns. "Law or no law," said he, "by some means or other, this man shall not, in the light of the sun, leave Boston." He thought that the zeal that would not keep till morning would never rescue a slave.

Some one now (9½ o'clock) cried out that a large crowd had assembled at the Court House, that a rescue would he attempted to-night, and he moved an adjournment. The platform was at once deserted by the officers, and the people began to leave; but many remained to hear "Father Lamson" and "Abby Folsom," who appeared together upon the rostrum, and spoke in concert. The lights were soon extinguished, and the crazy couple were forced to retire.

There was a general rush in the direction of Court square and, upon our arrival there, the mob had began to storm the doors of the Court House. Those on the east side were first attacked, but without avail. The rioters then went to the west side, threw stones through windows, and attempted to batter down one of the doors with a heavy beam. Failing in this, two men came forward with axes, and deliberately cut a hole through the lower part of the door, and subsequently forced it open. A number of persons rushed in, but they were repulsed by the Marshal and his aids.

During this struggle some thirty shots were fired by the rioters, and Mr. James Batchelder, a special officer, who was resisting the entrance of assailants, at the shattered door, was shot dead. The weapon discharged at him must have been a blunderbuss, as its contents embraced many bullets, some of them of a very large size. His bowels were literally torn out, and he died almost instantly He was a truck-

man in the employ of Mr. Peter Dunbar, and leaves a wife and one child

The Marshal's officers did not use their fire arms, and succeeded finally in expelling the rioters from the doors with their clubs only. During this scene, the Judges of the Supreme Court, the Attorney General of the Commonwealth and the Sheriff of Suffolk were in the building, awaiting the return of the jury in the Wilson case, who were to come in at 11 o'clock. Some members of the jury, who put their heads out of the window to see what was going on, were fired at, and the balls, in one or two instances, struck quite near them. The windows of the Justice's court-room were completely riddled by bullets discharged from without.

Marshal Freeman had a very narrow escape, a ball having struck the wall quite near him, while he was leading his men up to repulse the individuals who had broken in. His little son, who was present, ran into the crowd, crying "Father, you will be shot," and the lad was quite close to Batchelder when he fell.

During these outrages upon the Court House, the Chief of Police summoned his men to protect the peace in the square. Nine persons were arrested. Their names are John "J." Roberts (probably John G. Roberts), Albert G. Brown, Walter Finney, John Westley, Westley Bishop, Thomas Jackson, Henry Howe, Martin Stowell, and John Thompson. Roberts is charged with breaking the lamp in front of the door and with other acts of violence at the door. The other individuals were arrested on a general charge of disturbing the peace. Brown is a young man about twenty-two years old, and his friends offered bail for his appearance in the morning, but the Chief of Police committed him with the other prisoners.

The Mayor was notified by his Chief of Police of the state of affairs, and he at once issued an order on Col. Cowdin for two companies of artillery. At twelve o'clock the Boston Artillery, Capt. Evans, and the Columbian Artillery, Capt. Cass, came to the aid of the civil authorities. Their presence served to restore quiet, and Court square was soon deserted by the rioters. Capt. Evans's command was stationed in the City Hall for the night, and Capt. Cass's company took quarters in the Court House. At half-past twelve o'clock the square was deserted.

It is quite likely that the mob will reassemble this morning. If they do, and attempt to rescue Burns, the result will be awful. The Marshal is determined to execute the law—cost what it may. We give this information lest certain persons should be deceived by the lying statements of those Abolitionists who last night, in Faneuil Hall, counselled violence, and stated that the Mayor and Police would not protect the public peace.

At two o'clock this morning a detachment of Marines arrived from the Navy Yard. They will be stationed in the Court House this morning to preserve order during the examination of Burns, and should he be remanded back to slavery, the Marines will see to it that if a rescue is attempted there will be blows to give as well as blows to take. Let the noisy praters of Faneuil Hall—the Rev. Theodore Parker and his pious followers—"govern themselves accordingly."

MONDAY, May 29.

THE FOURTH CHAPTER OF THE FUGITIVE SLAVE CASE. Our account of the excitement attendant upon the arrest of Anthony Burns, the alleged slave of Col. Charles F. Suttle, closed at two o'clock on Saturday morning. Since that hour the city has been kept in a feverish state of uncertainty,—owing to the constant attendance of large crowds of men in the vicinity of the Court House,—but the presence of a strong military force, and the known determination of Marshal Freeman and his deputies, had the effect to restrain the mob. Since the struggle which resulted in the murder of James Batchelder on Friday night, no open attempt has been made to rescue Burns; but it is very well known that the Abolitionists have not been idle during the period which has intervened.

MILITARY MOVEMENTS.

We give below a history of the events since our last publication. In consequence of a belief on the part of the United States Marshal—that there was some truth in the statement of Wendell Phillips and others at the Faneuil Hall meeting that the city authorities would not a "lift a finger," &c.—a messenger was despatched to Col. William Dulany at the navy yard, at one o'clock on Friday morning, for a detachment of the Marines under his command, to aid him in keeping his prisoner. The colonel responded with alacrity, and in less than an hour reported himself at the Court House, with over forty men, armed and equipped. The officers serving under Col. Dulany are Capt. Jabez C. Rich, First-Lieutenants Henry W. Queen, and Adam N. Baker, Acting Adjutant.

The Marshal also despatched his deputy, John H. Riley, to Fort Independence, in the steamer John Taylor, with a letter to Major S. C. Ridgly, asking for a detachment of his artillery men. The major, with about fifty men, reported himself to the Marshal at six o'clock. His officers are Lieutenants O. B. Willcox and O. A. Mack. His troops took up their quarters in the Court House, the whole under command of Col. Dulany, he being the senior officer. As an attempt has been made to excite prejudice against the Marshal for calling upon the United States troops to aid him, and as some wiseacres have doubted his right to do so or the right of the federal troops to interfere, we will state the authority upon which he acted. In 1851, in consequence of the rescue of "Shadrach," letters were addressed by the Secretaries of Navy and War to the officers commanding at the naval and military stations in this state. The following is a copy of the letter of Secretary Conrad to the then commanding officer at Fort Independence:—

WAR DEPARTMENT, WASHINGTON, Feb. 17, 1851.

SIR:—Information has just been communicated to the President, that a number of persons (principally people of color) in the city of Boston, did a few days since, combine to resist the execution of the law providing for the arrest of fugitive slaves, and did forcibly rescue a slave, who had been arrested, from the custody of the officers of justice. It is possible that the civil authorities may find it necessary to call in the military force to aid in the execution of the law. If such should be the case, and the Marshal or any of his deputies, shall exhibit to you the certificate of the Circuit or District Judge of the United States in the state of Massachusetts, stating that, in his opinion the said military force is necessary to ensure the due execution of the laws, and shall require your aid, and that of the troops under your command, as a part of the posse comitatus, you will place under the direction and control of the Marshal, yourself and such portion of your command as may be deemed adequate to the purpose.

If neither the Circuit nor the District Judge should be in the city of Boston, the written certificate of the Marshal alone will be deemed sufficient authority for you to afford the required aid.

Very respectfully, your Obedient Servant,
C. M. CONRAD, Secretary of War.

Brevet Major George H. Thomas, or officer commanding Fort Independence, Boston Harbor, Mass.

After what had taken place at Faneuil Hall—open violence encouraged—the attack upon the Court-House, and the murder of one of the Marshal's deputies, he thought it time to call the attention of the Judge of the United States District Court to the letter of Mr. Conrad, and Judge Sprague at once gave it as his opinion that it was necessary that an efficient posse-comitatus should be called out to aid in enforcing the laws of the United States, and the attendance of Colonel Dulany and Major Ridgly was the result.

The calling out of the state militia was by the Mayor's order, and without any solicitation of the Marshal, although the latter took the precaution early on Friday evening to notify the Mayor, through the Chief of the Police, that he had reason to think that the Court House would be assaulted by a mob during the night. Had the Mayor been less prompt, there is no doubt that an appeal would have been made by the Attorney General of the Commonwealth to the Governor, to send aid to protect the peace in the vicinity of the Court-House. Mr. Clifford, as already stated, was in the Court-House at the time it was attacked, and saw the lifeless body of Batchelder soon after the murder. The Judges of the Supreme Court were also present, and were to some extent cognizant of the terrible transactions of the evening.

From eleven o'clock on Friday night, there is abundant evidence that the Mayor and his policemen have been faithful to duty, and have done much to protect the peace. The first military company called to the aid of the authorities were the Columbian Artillery, Captain Cass, and the Boston Artillery, Captain Evans. They remained on duty until Saturday morning, when an order was issued upon Major General Edmands for detachments of his command, to remain on duty for such periods of time as he should prescribe.

The Independent Cadets, Colonel Amory, and the Boston Light Infantry, Captain Rogers, at eight o'clock on Saturday morning, relieved the artillery companies, and remained on duty in Court square throughout the day. In the evening, the Cadets were relieved by the New England Guards, Captain Henshaw, and yesterday morning Captain Rogers's

command was dismissed, and the Union Guards, Captain Brown, took its place. From eight o'clock yesterday morning, the New England and Union Guards remained on duty, and at three o'clock P. M., Captain French was dismissed, and Captain Brown alone remained on duty during the night.

In addition to the men on active duty a corporal's guard was kept up at each of the armories throughout the city, and they will remain on duty until the end of the excitement. The Light Dragoons were, on Saturday evening, ordered to be in readiness at a moment's notice. They were in uniform all night, but were dismissed by General Edmands yesterday afternoon. This is, we believe, a clear statement of the movement of the military thus far.

POLICE MOVEMENTS—ARRESTS.

The Police have been equally efficient since the attack upon the Court House. On Saturday some thirty persons were arrested for various minor offences, such as refusing to withdraw from Court square when ordered to do so by the officers; but, after an hour's detention, were liberated upon promising to clear out.

Mayor Smith, who was introduced to the crowd by High Sheriff Eveleth, made an address from the east door of the Court House at ten o'clock on Saturday morning. He informed the multitude that the peace of the city would be maintained at all hazards; the municipal, state and federal laws would be sustained, and advised the spectators to withdraw from the square. Some cheered him, and others hissed; but very few persons withdrew, and a colored man, named William Johnson, gave loud utterance to his disapproval of the Mayor's address. The offender was arrested and committed for trial The Mayor subsequently issued the following appeal to the people:—

To the Citizens of Boston:

CITY HALL, Boston, May 27, 1854.

Under the excitement that now pervades the city, you are respectfully requested to co-operate with the municipal authorities in the maintenance of peace and good order.

The laws must be obeyed, let the consequences be what they may. J. V. C. SMITH, Mayor.

Simultaneous with the appearance of the above were circulated various incendiary documents, and among them appeals to the yeomanry of Massachusetts to "come to the rescue," and a printed statement to the effect that the Columbian Artillery, "a body of seventy-five Irishmen," had "volunteered their services to shoot down citizens of Boston," etc. It is well known that the Columbian Artillery were ordered out by Col. Cowdin, and that the presence of Capt. Cass's command was in compliance with strict military order

The following is a copy of the address to the yeomen:—

BOSTON, May 27, 1854.

To the Yeomanry of New England.

Countrymen and Brothers,—The Vigilance Committee of Boston inform you that the *mock trial* of the poor fugitive slave has been further postponed to Monday next, at 11 o'clock A. M.

You are requested therefore to come down and lend the moral weight of your presence, and the aid of your counsel, to the friends of justice and humanity in the city.

Come down, then, Sons of the Puritans; for even if the poor victim is to be carried off by the brute force of arms and delivered over to slavery, you should at least be present to witness the sacrifice, and you should follow him in sad procession with your tears and prayers, and then go home and take such action as your manhood and your patriotism may suggest.

Come, then, by the early trains on Monday, and rally in Court square! Come with courage and resolution in your hearts; but with only such arms as God gave you.

In the evening of Saturday, the police, by order of the Mayor, cleared Court square, and persons not having business were not permitted to pass through. In this way comparative quiet was restored, but nevertheless a large crowd lingered in Court street until a late hour, and some stones were thrown at the Court House about nine o'clock at night. The police promptly dispersed the mob, and arrested two of their leaders, named Nelson Hopewell, colored, and George Palmer. Hopewell had in his possession a large knife, and it is said that he can be identified as the individual who attempted to assault Mr. W. C. Fay early in the evening. Palmer is charged with an assault on officer Tate. Other individuals were arrested at this time, but Hopewell and Palmer only were detained for examination. After this demonstration, ropes were extended across the several avenues leading to the Court House, and those persons who visited the scene of excitement were obliged to stand in Court street. The attendance was not very large, and most of those present came "to see what they could see." There was no attempt at further outbreak during the night.

The weapon by which Batchelder is supposed to have received his death-stroke is in the possession of the authorities. It was found on Hopewell—it is a long, broad and sharp knife, the blade encrusted either with rust or blood stains. It is difficult just now to say which, as chemical tests will scarcely distinguish between the two—there being iron in blood as well as in rust—and a careful microscopic examination will be necessary to determine the point.

TEN PERSONS COMMITTED FOR MURDER.

The nine persons arrested on Friday evening at the time the Court House door was broken open, were arraigned on Saturday afternoon, at two o'clock, before Judge Rogers for examination. Their names are Albert G. Browne, Jr., a law student at Cambridge, and son of Hon. A. G. Brown of Salem, John J. Roberts, white, Martin Stowell, white, John Johnson, white, Henry Howe, white, John Morrison, white, Walter Pheonx, colored, John Westley, colored, Wesley Bishop, colored, and Thomas Jackson, colored. The complaint, which was made by the Deputy Chief of Police, Mr. Ham, charges the defendants, jointly, with having committed with malice aforethought a felonious assault, on the 26th day of May, 1854, upon the person of James Batchelder, with firearms, loaded with powder and ball, and that they did kill and murder said Batchelder. The defendants took the charge very easy, and some of them actually laughed when it was read. The prosecuting officer not being able to go on with the trial, asked a delay until Tuesday morning, which was granted, and the defendants were sent to jail to await the issue. Soon after these proceedings, John C. Cluer, a notorious Abolition and street preacher, was taaken into custody by the officers, as an accessory to the murder of Batchelder. It is stated that he harangued the mob on Friday night to deeds of violence, and that when admonished to desist by the Chief of Police, he refused; and positively claimed the right, "as a citizen of Boston," to enter the Court House. He was driven away from the door, and on the subsequent morning an order was procured for his arrest.

Messrs. Charles G. Davis, John A. Andrew and Robert Morris appeared as counsel for the ten prisoners who were arraigned.

COMMISSIONER'S COURT.

The examination of the case before Commissioner Loring was resumed at ten o'clock on Saturday in the United States District Court room. Burns had been brought in an hour previously under a strong guard and handcuffed. Colonel Dulany's command was placed on guard throughout the Court-House, and the stairways and passages were well fortified by the United States troops. For the claimant, Messrs. S. J. Thomas and E. G. Parker appeared as counsel, and Messrs. R. H. Dana, Jr, and C. M. Ellis acted on behalf of the fugitive.

Mr. Ellis moved the Court for a further delay of proceedings on the grounnd that neither his colleague nor himself had had sufficient time to prepare a defence, and he had not yet been able to speak to the prisoner. They both had been retained since Friday afternoon only, and did not act as counsel at the first hearing, when a postponement was granted on Burns's own petition, in order to allow him to decide on his course. Under the e circumstances he urged that a further delay was a matter of justice.

Messrs. Thomas and Parker both resisted a postponement on the ground that the opposing counsel knew they had no substantial defence to make, and it was not even suggested that they had any evidence whatever to disprove the fact of the claimant's ownership in the prisoner The excitement abroad in the community and the deplorable tragady of the previous night, so far from being an argument of delay, they held to be a strong reason why the present case should be disposed of at the earliest moment consistent with justice.

Mr. Dana, in reply, rehearsed the circumstances attending the arrest of his client and of his own connection with the case, maintaining that the very briel space since himself and his associate had been retained had not allowed them any reasonable chance to make a defence here. Knowing this, they had endeavored yesterday to obtain a writ *de homine replegiando* from Judge Sprague, but at six o'clock it was refuseil. Mr. Dana went on to review the nature of the record, which was put in as proof in this case, and which he had a copy of only since Friday evening, and argued that the granting of the certificate settled the case of Burns finally; that he would never go before another tribunal, but might, and Burns himself feared that he would, be sold to go to New Orleans.

If the case went on now, they should say he has not had a defence. It was in view of the tremendous consequences of granting this certificate that they asked delay.

In reply to the suggestion that Burns might be sold at the first slave mart, Mr. Parker said that the claimant had consented to selling him here, and that it was understood that Burns would be purchased in Boston.

The Commissioner said there was a difference in granting a delay in proceedings before this Court in a hearing of this kind, from the delays before other Courts, where delays are made for periods of weeks or months, and where important testimony may be lost by the death of witnesses, or by other causes. He looked upon Burns as one who is as yet to be regarded as a freeman; he knew of no proof yet submitted that he was to be regarded as anything else. He was arrested on Wednesday night, and on Thursday morning, at the hearing, expressed a desire for delay, that he might make up his mind what course he should pursue. The delay was granted, and he had improved it by obtaining a counsel. Now his counsel being chosen by him, came into Court and said that they are not prepared to go on with this case; and they cannot go on now and do their client justice. The question of delay was one within the discretion of the Court to grant. He thought the request was a reasonable one. As to the excitement in the community, he regretted it, but he could not consider it in this case. He must look at the rights of the parties, and see that justice is done. It seemed to him that one or two days' delay was not an unreasonable request, and he therefore should grant further delay until Monday morning at eleven o'clock. The Court then adjourned.

The crowd within quietly dispersed. Among the Abolitionists present were Wendell Phillips and Theodore Parker; but the great bulk of the audience was composed of special deputies of the United States Marshal. Burns was again taken to his quarters in an upper chamber in the Court House.

The proceedings in Court were attended with decorum; but the excitement in the street was quite intense.

INCIDENTAL MATTERS.

Yesterday, there was quite a large assembly in attendance until nightfall in Court street, but there was no disturbance of the peace. All admission, except on business, into Court square, was refused by the police. The Mayor was in attendance at the City Hall all day, and gave his personal superintendance to the police movements. General Edmands too, made the City Hall his head-quarters.

The Music Hall was crowded in the morning in anticipation of a peppery speech from Rev. Theodore Parker. Many persons were obliged to stand up, and hundreds went away unable to get in The platform was occupied and extra seats were brought into the hall for the accommodation of many ladies and gentlemen. The clergyman made his appearance in due time, and some one among the admirers—fearful that the reverend gentleman would not select *the* proper topic for his discourse, handed him a note which contained a request for a sermon on the events of the day. Mr. Parker, in reply, said that he could not turn away from the subject which he had selected, and should go on with the discourse prepared for the occasion, saying that, on the next Sabbath he would preach on the "PERILS OF AMERICA." Notwithstanding his refusal to comply with the request contained in the note, and his promise to preach in compliance with it next Sunday, he did make a brief extemporaneous speech, denunciatory of the United States Commissioner and Marshal in his peculiar style. He charged Edward Greely Loring with being the cause of all the excitement which has prevailed during the past four days—with being the originator of the murder of James Batchelder, and for being responsible for the arrest of the persons charged with the midnight homicide. He then proceeded with the regular sermon, which was on wars generally—but the war in the East particularly. He gave statistics of the expenses of such contests and endeavored to show their tendencies.

Anthony Burns, the alleged slave, sent a card to Theodore Parker—or some one sent it in the poor fellow's name—which was read yesterday at the Music Hall. It contained a request that Mr. Parker would pray for him, and was dated "Slave State of Massachusetts," &c.

There were various rumors afloat yesterday to the effect that an immense throng of people from the country, including two hundred colored men from New Bedford, were to visit the city this morning, and surround the Court House,—that the white abolitionists were to block the avenues, while the blacks did the work of fighting and rescuing. Although we do not believe one word of these reports, it may not be amiss again to state to our excited friends that any attempt on their part to obstruct the course of law will be visited, with sad effects, upon their heads. It is a mistaken notion on their part that the people of Boston are ready to have their city converted into a place of riot. The Mayor's appeal has already been responded to, and if Burns should be remanded to the custody of his alleged master, there is force enough at the command of the Marshal to execute the law of the country.

The President, having been informed that the United States troops had been called upon, telegraphed on Saturday to Marshal Freeman, approving of his course thus far, and counseling him to execute the laws of the country at all hazards and at any cost.

In consequence of a rumor that the houses of Wendell Phillips and Theodore Parker were to be attacked, on Saturday night, the Mayor detailed a force to protect those gentlemen from violence. It turned out upon investigation, that there was little or no cause for the report.

The post mortem examination of the body of Mr. Batchelder disclosed the fact that his murder was not caused by the contents of a blunderbuss, but that he was stabbed in the lower part of the bowels; the wound inflicted was over two inches wide, and the knife penetrated six inches The only word which the poor man uttered, upon receiving the mortal wound, was, "I am stabbed." The widow of the murdered man, when the news of the death of her husband reached her, was in the yard of her house at Charlestown The terrible tidings for a time dethroned her reason; but she is now rational. It is to be hoped that Congress will render prompt aid—in so far as it can by money—to the widow and orphan of this man who died in defence of the laws of the country. A life pension should be extended to her without delay. Promptness on the part of the lawgivers, in this case, will have a moral effect, which the enemies of peace cannot overcome.

The moment the Court House door was broken into on Friday night, a rioter was seen to discharge a pistol at the officers inside, drop the weapon and then run away.

The persons arrested on the charge of homicide were temporarily placed in a cell together at the Centre watch house. After their removal to jail, a loaded pistol was found in the bunk.

The colored women seemed to participate in the general excitement concerning Burns. They have been in attendance at the Court House in large numbers during Friday and Saturday.

Yesterday there was very little excitement in the city, notwithstanding the presence of many strangers. There was quite a crowd in attendance in Court-street from morning until late into the night. No violence was attempted and nearly all the persons assembled were attracted by sheer curiosity.

The colored people had several private conferences during the day, and the Vigilance Committee had a meeting.

Up to ten o'clock last night, the number of persons arrested for riotous conduct and disturbing the peace in the vicinity of the Court House was fifty-three. Of this number about forty individuals were discharged upon "parole of honor."

An attempt was made on Saturday evening to raise money to purchase Burns from his owner, which was quite successful. It was intended to execute the bond during the night, and the counsel for the prisoner and the District Attorney were in attendance at the Marshal's office for the purpose of witnessing the transaction until a very late hour at night The sum fixed upon by the owner of Burns was $1200, and that was not raised, however, until after 12 o'clock, and it being then Sunday, the negociation was necessarily suspended. Whether the bargain will be closed to-day or not, is doubtful, as many persons are of opinion that the strength of the civil authorities cannot be tested unless Burns is removed, at least, on shipboard. Col. Suttle has been admonished by his friends at home not to sell the man, and thus the case stands at present. In consequence of this state of things, the Abolitionists yesterday issued a proclamation to their friends "to be on their guard against all lies"—to "watch the slave pen"—and calling on "every man to attend the trial" on Monday morning

Commonwealth.

Boston, Friday, June 2, 1854.

THE DEED IS DONE.

We give below the particulars of the infamous decision of the slave-catcher Loring, remanding Burns to his claimant. The city is alive with excitement and indignation at the outrageous villainy. We know of no words to express our feelings with. Let all men hasten to witness the last act of the tragedy, if it is not too late. Go and witness the degradation of Massachusetts, and go home and resolve henceforth and forever, to fiight slavery and the fugitive Slave Law till they disappear from the land they disgrace. The people have vengeance in THEIR OWN HANDS for this deed. If they would not be themselves Slaves forever, let them now resolve to ACT.

Commissioner's Court.

FRIDAY MORNING, 9 o'clock.

The Court came in punctually at 9 o'clock, the room being crowded.

Commissioner Loring immediately proceeded to deliver his decision, saying the issue hetween the parties arises under the statute of 1850. It was urged that that is unconstitutional, on the ground of want of jury trial; but the rendition of the fugitive being a a ministerial act, there is no provision in the Constitution for a jury trial in cases of such ministerial nature. He did not regard the objection to the record of the Virginia court as being of a charater not to be received in this court, he did not consider sustained by the language of the Constitution in reference to the courts. He thought the act of '50 was Constitutional, being pronounced so by numerous authorities, the language of the Chief Justice of Massachusetts in the Sims case being quoted as peculiarly appropriate to the occasion. Whether the act is a harsh and cruel one is not to be considered here, and if good men should not enforce it, into whose hands then, should its exccution fall?

The facts to be proved by the claimant are that Anthony Burns owed service and labor, and that he escaped from such labor and service. This he thought had been done by the record and testimony. The next fact was as to the identity of the prisoner, it being testified that he was in Virginia on a certain date, when it had been shown that he was here prior to the time alleged he was missing. This testimony being irreconcilable, we must look to other evidence corroborative of the claim; and this was found in the conversation which ensued on the night of the arrest between the claimant and the prisoner, which was testified to by several witnesses.

Under these circumstances, he deemed that THE CLAIMANT WAS ENTITLED TO A CERTIFICATE FROM HIM FOR HIS RETURN OF THE FUGITITE !

When the Commissioner was narrating the conversation between claimant and prisoner, to the effect that the *latter was willing to go back*, BURNS SEVERAL TIMES SHOOK HIS HEAD NEGATIVELY, AND WITH MUCH FEELING.

The Court room was then called, and the prisoner taken in custody by the officers.

ONE THING TO BE DONE.

Massachusetts and Boston must no longe be disgraced by a slave catching, ten dollar Commissioner, acting as Judge of Probate. The process of REMOVAL is not with the Governor, but with the Legislature. It may be done by address of the two branches, or by impeachment. The first is the practical method. we have hastily prepared the following form of petition. This, or something like it, must be signed by all the people and sent to the next Legislature; and men must be chosen to that body who will act up to its request.

To the Legislature of Massachusetts :—The undersigned, citizens of Massachusetts, request of your honorable body to forwith take measures for the REMOVAL OF EDWARD GREELEY LORING FROM THE OFFICE OF JUDGE OF PROBATE FOR SUFFOLK COUNTY :—

NEW MODE OF PRACTICE.—We are informed by an eminent legal gentleman of this city, that it is contemplated by certain parties, in case of a failure to obtain a certificate to convey Burns back to Virginia, to institute another process for his detention and examination before another Commissioner. The precise character of the process is best known to the parties, who evidently contemplate acting with secrecy and despatch.—*Chronicle.*

The fugitive slave bill has introduced a good many new modes of practice. Has it not overridden great principles of the federal Constitution, and does it not spurn and spit upon the noblest sentiments of human nature? Has it not overridden the laws of this State and transformed our Court House into a fortified slave pen? Has it not been repeatedly used to kidnap men who were no more slaves than the men who signed the Declaration of Independence? Is it not the very chiefest of the infernal machines now employed by the villains who make it their trade to steal free colored persons at the North and sell them to Southern slave traders? No man who has allowed himself to understand and feel the real character of that infamous bill, is likely to be surprised at any of its "new modes of practice." Right, reason, religion, the principles of the Constitution, the public peace, human nature—all cry to heaven against it. LET IT BE REPEALED !

The *Herald* has the following:—"We are authorized by the counsel for the claimant of Anthony Burns to say that he, Col. Suttle, has no idea of re-arresting the said fugitive, as reported, in case Judge Loring's decision should be adverse to him, nor will he attempt forcibly to seize him."

The Decision.

At nine o'clock, this morning, Commissioner Loring will appear in the Court House to decide the fate of the man imprisoned there. We know not what his decision will be; but we can not see how it is possible for him to justify a decision in favor of the claimant, even on the ground of those who hold that man hunting should be sustained, when it is done strictly according to the terms of the fugitive slave bill. During the examination, the claimant has been beaten at every point. But there is an intense anxiety in the public mind, mingled with the feelings of hope that the Commissioner will set the man free. His decision, whatever it may be, will not be forgotten. It will open a fountain of feeling among us, which will flow while the present generation lasts; and the decision itself, acting on the ineradicable human nature of the men and women of this community, will determine whether the streams from that fountain shall be sweet or bitter. It is useless, it is senseless, to bid human nature look away and make up no judgment, on what will be done to-day by Commissioner Loring. It *will* behold and feel what is done, and its judgment can not be suppressed.

Let the people be present at the Court House, to-day, not to express their feelings madly in useless acts of violence, but quietly to behold the man, and the garrison that has been employed to keep him, when they come forth. Let the people be there to see this spectacle. It will do them good. It will afford something to cherish and strengthen the convictions which have been developed, or quickened to higher activity in them, by this slave hunt. We *hope* the man will come forth free, and that the United States troops will be compelled to leave the building—which has been lawlessly transformed into a slave prison and a fortress of the slave power—and march off without their prey. If this hope is realized, let us be there to see them go, and rejoice that the man-hunters are baffled. But, if the man is to be given up—if he is to leave the Court House in the Marshal's hands, surrounded and guarded by the soldiery, let us be there to witness this triumph of despotism, and study the lessons it will furnish. It is stated that the Mayor has ordered out the whole military force of the city; and one of the evening papers learns that, in case Commissioner Loring gives up the prisoner to slavery, the exodus from the Court House will be as follows:—

"He will be taken to the Revenue Cutter in the centre of a hollow square of U. S. soldiers, the marines being upon the outside. It is also stated that the State military, though they will be in readiness to preserve peace of the city, will not make their appearance unless a disturbance should actually occur."

The military display which has been made during this affair, by Mayor Smith, was wholly uncalled for; and this final demonstration, together with the rest of the Mayor's military parade, will hereafter receive from public opinion the judgement it merits. It is receiving it now.

There is a suspicion quite prevalent—almost every one we meet expresses it—that there is a plan on foot to arrest, or seize Burns again, immediately, if he is discharged by the Commissioner's decision. It is believed that he will not be permitted to go free without some desperate effort to carry him off—that he may be immediately taken before another Commissioner—or that some nefarious contrivance will be adopted to keep possession of him. In reply to this feeling, the following, in the hand writing of B. F. Hallett, U. S. District Attorney, has been placed in our hands by his direction, for publication:—

"We are authorized by the U. S. Attorney and Marshal to say that the import of a hand-bill posted to incite to treason and riot by asserting that Burns will not be set free if discharged by the Commissioner, but will be seized again, is entirely false. The decision of the Commissioner, whichever way it may be, will be carri ed out. To resist the law, by combination and force, will be treason against the United States."

We respectfully announce to the District Attorney that we go to the federal Constitution, and not to him or any other government official, to learn what constitutes treason. His definition is not original; we have heard, it before. We believe it is about as old as the first attempts to defy and crush out live human nature with that unconstitutional and infernal fugitive slave bill. It is one of the many foul things that have issued from that abomination, and the attempt to naturalize among us the doctrine of "constructive treason" is another, which he may have heard of in the course of his inquiries.

We are glad to know that if the Commissioner discharges Burns, there will not be another attempt to arrest or seize him, and with great pleasure we put on record this official assurance that there will be no such attempt. We hope that Col. Suttle will make it good; but the District Attorney was formerly a very strong Abolitionist, and he has been sufficiently intimate with anti-slavery men to learn that it is very difficult for them to put much confidence in those who hunt men, and believe in such things as the fugitive slave bill.

Boston Journal.

FRIDAY EVENING, JUNE 2, 1854.

The Decision in the Fugitive Slave Case.

We have given in another column the decision of the Commissioner in the fugitive slave case which has created so much excitement in this city during the past week. Poor Burns has been remanded to the custody of his master, and must, we presume, go back to slavery. This decision was not expected by the community generally, although many who have made the constitution and laws their study, have expressed the apprehension that the commissioner would be compelled, under the law and evidence, to deliver the fugitive to his claimant. The evidence was of such a nature as to convince even the most unwilling minds that Burns is the slave of Suttle—his own fatal admission, indeed, establishing the fact—and the Fugitive Slave Law is so stringent in its provisions, that if this conviction is forced upon the mind of the Commissioner, he must remand the fugitive, or violate his oath of office. We do not doubt that Commissioner Loring has honestly and conscientiously fulfilled the unpleasant duty which was devolved upon him, and while regretting most profoundly the result of this examination, we have no disposition to censure his course, or to criticise his decision. It is *the law*, and not its ministers, upon whom this act must be charged. The obloquy attaches to the law, and not to those whose duty *absolutely requires them* to enforce it. The distinction is broad and well defined, and must force itself upon the conviction of every unprejudiced mind.

We sympathise deeply with the unfortunate colored man who has been remanded to the custody of a Virginia task-master and we still more deeply sympathise with the colored population of this city, many of whom are fugitives, who are taught by this decision that although in a State where freedom reigns, they are not safe from the claims of those who have a title under the Constitution to their services—or in other words a property in their bone and sinews—their flesh and blood. It is this conviction of insecurity, constantly forcing itself upon their minds which has made them look upon this case with intense interest, and it is the knowledge of the absolute misery that is carried into the homes of many worthy colored families by the enforcement of this law, which has deeply stirred up the feelings of the community, and which affords the only palliation for the disorderly and riotous conduct of the mobs that have surrounded the Court House. God grant that occasion may never again be given for renewed alarm, or for similar demonstrations. The citizens of Boston have repeatedly submitted to the enforcement of a law which tramples upon their every sentiment of justice and humanity. They have "conquered their prejudices," once and again, and will ever respect and enforce the laws, but they will not sit quietly down with the prospect before them of a renewal of the scenes which have transpired during the past week. They *must* be relieved from an obligation which requires such sacrifices of feeling, and which so conflicts with their sentiments of humanity.

It is a pertinent inquiry at the present time what remedy we have against the recurrence of such scenes as are now being enacted in this city? What is to prevent slave owners from coming here, every month, or every week, and seizing upon one whose black skin is to them *prima facie* evidence that he owes service to a master at the South, thus keeping our colored population in a constant state of alarm, and creating in our community a fever of excitement? The answer is plain: Let the free States send Representatives to Congress who will demand and obtain the repeal of the fugitive slave law—if not its repeal, its essential modification, so as to allow of a trial by jury. The true remedy for all political evils is the ballot box, and there should the people be heard. So long as the Constitution stands without amendment, our people must submit to the reclamation of fugitives. But they are not willing that fugitives, whose presence on our soil is, in their eyes, *prima facie* evidence of freedom, should be taken to the South by a summary process. They are no longer willing to submit without the strongest and most persevering remonstrance to a law which they have tolerated as one of a series of mutual compromises that have now been trampled upon by the South. The obligations into which the South has entered have been broken and the freemen of the North must now free themselves.

☞ The readiness of our city authorities to preserve the public peace, and the promptness with which the citizen soldiery have responded to the call of duty, is worthy of all praise. But one feeling evidently exists in the Boston brigade, and that is a determination to support the authorities in their efforts to prevent a riot and to enforce the laws. It is well for the community that the cause of public peace and order has so efficient a body of guardians and protectors. Life and property are safe in a city where the citizen soldiery are actuated by such a spirit, and with such inflexible guardians the law must ever triumph.

LATEST PARTICULARS.

Burns's Embarkment.

After our regular edition went to press, the Police, under Chief Taylor and Deputy Ham, cleared Court street, in front of the Court House, preventing the passage of omnibuses and other vehicles, and keeping the crowd of those on foot on the west of the Court House west of the westerly avenue leading into the square from Court street.

Every avenue leading to Court street was guarded by detachments from Gen. Edmands' command, who, after leaving the Common, marched down Beacon and Tremont streets, through Court street, into State street—every avenue leading into which street received a detachment of the M. V. M., to guard against the ingress or egress of disorderly persons.

By adopting these means, the streets leading to Long wharf were kept comparatively clear of the thousands who had assembled, and this order was maintained until the end.

Subsequently the Cadets, National Guards, and Union Guards, marched back, up State and Court street, into Court square.

The Lancers were stationed for some hours in Court square, and from time to time, sections were detailed to different parts of the streets through which it was expected that Burns would be taken, either to relieve the Light Dragoons or other companies who were on duty along State street, or for some other special purpose.

As Major Gen. Edmands and Staff entered Court Square they were greeted with applause by some and hisses by others. The cheers predominated, however.

As the preparations for the removal of Burns from the Court House were being consummated, a detachment of the Fourth Regt. U. S. Artillery was placed in charge of the "field piece," and cartridges were deposited in pouches which were borne by some of the men.

The U. S. troops, including both the 4th Regt. Artillery, and the U. S. Marines from Forts Independence and Constitution were marched out of the Court House into the Square, and each man's musket was duly inspected.

Next came out of the Court House, under command of Capt. Peter Dunbar, Jr., one hundred and twenty special officers, employed by the U. S. Authorities, who formed a hollow Square, directly in front of the easterly entrance to the Court House.

This body of special aids was well armed, each man with a drawn Roman sword on his right side, and a loaded revolver in his belt at his left side. Upon their appearance, they were greeted with cheers, groans, hisses, and other manifestations of approval or detestation.

These preparations having been completed, Burns was escorted out of the Court House by U. S. Marshal Freeman and some half dozen of his aids, who took their position in the centre of the hollow square. At this moment Burns appeared as indifferent as the most uninterested spectator, and the cries of Shame! shame! the hisses, groans, and other demonstrations which greeted his appearance, did not seem in the least to excite him.

The column was then formed in the following order: A detachment of the National Lancers on the right and left of the street; a corps of U. S. Artillery, followed by a corps of U. S. Marines; hollow square of special officers, in the centre of which was the U. S. Marshal, his aids, and the fugitive, Anthony Burns; a corps of U. S. Marines; the field piece, drawn by a span of horses and manned by a detachmen of six of the members of the 4th Regt. U. S. Artillery; a corps of U. S. Marines.

The rabble attempted to force their way upon the rear of the corps of U. S. Marines, but the formidable appearance of a detachment of the National Lancers, and others of the M. V. M., deterred them at short notice from proceeding.

At the corner of Court Square and Court street, the demonstrations were loud and uproarous.

Passing down State street the procession was greeted the whole entire route with mingled groans, cheers and hisses, but no attempt at rescue was made. The most intense interest was manifested to get a parting glimpse of the fugitive.

As the column was passing through State street, by the office of the *Commonwealth* the procession was greeted with a shower of cayenne pepper, cowitch, or some other most noxious substance, thrown from the *Commonwealth* building.

A bottle, containing a liquid, believed to be vitriol, was also thrown from the *Commonwealth* building, nearly across State street. The misile would have struck Joseph W. Coburn, Esq., had he not chanced to see it coming directly towards his head, and dodged aside. As it was, however, the bottle struck the pavement and was dashed in pieces, and very fortunately its contents harmed no one.

The procession turned at the head of Long Wharf and proceeded down the back side of the wharf and thence to T wharf, at which the steamer John Taylor was lying. Burns was marched directly aboard and taken to the cabin out of sight of the crowds.

The wharves and vessels in the vicinity were crowded with thousands of persons gathered to witness the embarkation. The U. S. Marines and the company of U. S. Troops from Fort Independence went down the harbor in the steamer.

The steamer was delayed at the wharf about one hour after Burns went on board. The delay was mainly occasioned by the labor of getting the field piece, which was drawn in the procession, aboard the steamer.

At quarter past three, every thing was on board, and the word to cast off was given. At precisely twenty minutes past three, the steamer swung from the wharf and proceeded down the harbor, with Revenue Cutter Morris, which had previously been towed down to the castle.

The steamer will there put Burns on board the cutter, and then take her in tow and tow her to sea.

She will then land the company of troops at the Fort and return with the marines to the Navy Yard.

The Light Dragoons, Capt. Wright, had a hard duty to perform in keeping the crowds from entering State street from the avenues leading thereto, and in the faithful and fearless discharge of their duty, were obliged to draw their heavy sabres, and "cut right and left." In the exercise of this duty, one man, who was somewhat more venturesome than the rest, or, who was more unfortunate, received a severe, but not dangerous wound on the head from a sabre, and was conducted by the Police to Station No. 1, where a physician was called to attend him.

A valuable horse, belonging to a member of the corps of National Lancers, who was on duty in Commercial street, was severely stabbed in the side by some unknown person, and so badly injurad that it was thought that the noble animal would have to be killed.

Incidents of the Last Day.

As early as six o'clock this morning, a few persons had assembled in Court Square, evidently with the intention of remaining there at least until the decision of U. S. Commissioner Loring was made known, and, from that time, the crowd gradually increased.

Nine o'clock, A. M. The bell on the Court House has just tolled for the opening of the Commissioner's Court, and both the excitement and the crowd in the square are momentarily increasing, though there has been no direct breach of the peace. The larger portion of the crowd appear as if they were present from no other motive than that of curiosity. The northerly side of Court street is thronged with people, among whom are many females of every shade of complexion, apparently anxiously waiting to hear the announcement of the Commissioner's decision.

Field Piece in Court Square.

About half past seven o'clock this morning, a detachment of the 4th regiment U. S. Artillery, having previously been to the navy yard and received a field piece, marched up State street. The cannon was drawn by a pair of horses, and it was planted in Court square a little south of the easterly entrance of the Court House, and pointing towards Court street. Soon after, the Artillery were relieved by a detachment of U. S. Marines, who stood guard over the formidable piece of ordnance. Before eight o'clock several hundred persons had assembled in the square.

The Military.

The several companies of M. V. M. in the city began to assemble at their respective armories at 7 o'clock this morning, and soon after the streets resounded with the strains of martial music. The troops marched to the parade ground on the Common, where they formed into column, with the Lancers and Light Dragoons on the right, the whole under command of Maj. Gen. Edmands.

Presentation to the Fugitive.

Last evening one of the U. S. Marshal's special officers started the generous project of procuring an entire new suit of clothes for Burns, the fugitive, and in a very short time the officers had contributed some $40, with which a handsome suit was purchased, and this morning Burns appeared in the court room dressed in new and serviceable apparel. He expressed his warmest thanks to the officers for their generous and unexpected gift.

Clearing the Square.

Half past nine o'clock A. M. As soon as the announcement of the decision of the Commissioner was made known to the crowd on the easterly side of the Court House, the police cleared the Square of all persons, other than those who had special business within its limits.

A force of police was stationed at every avenue leading to the Square, with orders to admit none, excepting those whose business required them inside.

Mourning Displayed.

Hon. John C. Park has just displayed heavy folds of black cambric from each of the three windows of his office in Court square.

Several of the occupants of tenements on Court street, are following the example set by Hon Mr. Park, and are displaying folds of black on the outside of their stores and offices. Among the number, are Messrs. Jacobs & Deane, and A. N. Cook & Co., who have their awnings hung with festoons of black; J. A Andrew, Esq., at the corner of Court and Washington street, also has the windows of his law office festooned in mourning.

The *Commonwealth* office presented three American flags, dressed in mourning, and lines of crape were stretched across the street.

Just after the military passed down State street, a coffin was produced and exhibited on the corner of State street, in front of the *Commonwealth* office. A struggle took place between those holding the coffin and the crowd, but the former retained possession of it.

The coffin was subsequently taken into the building, and lowered out of one of the windows, with the inscription of "Liberty" on it.

Court Street.

Court street in front of the Court House and in the immediate vicinity, is filled with a mass of living beings.

Artillery Practice.

Ten o'clock A. M. The U. S. Artillery have just been practicing loading and firing (without discharging) their field piece in the squ are, with a degree of quickness and skill which gave all who witnessed their movements to understand that they were proficients in their business.

State Street.

Large numbers of people are thronging the sidewalks in State street, evidently expectiug every moment to see Burns pass down the street on his way to the vessel which it is rumored and believed is to carry him back to Virginia.

Officers to Accompany Burns.

Deputy U. S. Marshal John H. Riley, together with officers George J. Coolidge, Asa O. Butman, Charles Godfrey and William Black, have been detailed to accompany Burns on his passage to Virginia.

Proclamation by the Mayor.

His Honor, Mayor Smith, has issued the following proclamation, which has been posted about the streets:

PROCLAMATION! *To the Citizens of Boston.* To secure order throughout the City, this day, Major-General Edwands, and the Chief of Police, will make such disposition of the respective forces under their commands, as will best promote that important object; and they are clothed with full discretionary powers to sustain the laws of the land.

All well disposed citizens, and other persons, are urgently requested to leave those streets which it may be found necessary to clear temporarily, and under no circumstances to obstruct or molest any officer, civil or military, in the lawful discharge of his duty.

J. V. C. SMITH, Mayor.

Moyor's Office, City Hall, Boston, June 2, 1854.

Efforts to Purchase Burns.

Efforts have been making during the whole forenoon to purchase Burns, but they have been unsuccessful. We understand that those who here represent Colonel Suttle, will listen to no propositions until the fugitive is placed on board the cutter. To this Burns's friends demur, and in this position the matter stood at half past one.

The arrangements for Burns's return are said to be these. He is to be taken from the Court House and marched to the end of Long Wharf, and from thence put on board the revenue cutter Morris. The steamer John Taylor will tow the cutter to sea.

Arrests, &c.

Several arrests have been made during the forenoon. One man was arrested with two pistols in his possession, and was locked up in the Centre watch house. Two others were locked up for not obeying the orders of the police to clear the streets.

The Appearance of State Street.

The shutters of the stores on State street were closed and business was completely suspended after ten o'clock this forenoon. Crowds congregated on the corners, but the street was kept comparatively clear by the military and police.

Arrest of one of the Witnesses.

Jones, one of the witnesses in the slave case, was particularly earnest in his declamatory appeals on State street, and the disturbance which he created finally forced the police to take him in custody.

The Latest.

At two o'clock P. M., when our paper went to press, Burns had not been moved from the Court House.

The excitement had increased to the highest pitch.

The buildings on State street were crowded, and the military were on the alert and ready for duty at a moments warning.

There can be no doubt that the fugitive will be conveyed on board the vessel, and it is to be hoped that his release by purchase will there be effected.

Commonwealth.

Boston, Saturday, June 3, 1854.

MORNING EDITION.

The Fugitive Case.

We have no disposition to indulge in violent language, concerning the events of the past week. The time for violent language has passed away. When the slave-stealer was here in full possession of our city, violent language was not out of place. It could not be avoided. Men must be more or less than human who could have refrained from expressing the deep indignation which swelled in every honest man's bosom. We blame no man for using hard words, or for counselling resistance. In the name of outraged liberty, we thank the men who, in Faneuil Hall last Friday night, gave expression to their feelings on the subject of the slave-hunt. We honor the feelings which led to the ill-timed attempt to rescue Burns. We call no man a criminal who spoke in the Hall, or who assailed the Court House. Not until we can condemn the men who threw the tea into Boston harbor, or who mobbed the Austrian Haynau, or who drove Ward, the murderer, out of Louisville, can we condemn as criminals the men who have been visited with the denunciations of the pro-slavery press, and who are now under arrest, or in danger of arrest. And when we consider who are the men who reprove these for violent language and action, we are still less disposed to join with them.

Who is Suttle? A Virginian slaveholder, who has never known any other law than the Lynch law, by which his system lives. Who is B. F. Hallett, his legal adviser? A man who has got his living ever since we ever heard of him, by defending law-breakers; a man whom we once heard compare the keeper of a tippling shop to the Revolutionary heroes of 1776, *because* the man had violated the fifteen-gallon law; a man who justified the violence in Rhode Island, and has been ever since uttering his stupid platitudes against the general government for interfering with the internal affairs of that State. Who composed the guard of poor Burns as he passed down State street? A gang of the most audacious, law-breaking ruffians to be found in the whole city. These are the men who disapprove of violence and hard language. We take no counsel from such sources.

The time has passed for language inciting to violence. The deed of shame has been done. Boston is again disgraced. Massachusetts is prostrate to-day at the feet of the slaveholders; yes, at the feet of *one* slaveholder. The infamy of yesterday will leave a stain upon her

history forever. Dear as are the memories of Bunker Hill and Faneuil Hall, and Liberty Tree; honorable and cherished as are the lives of Otis, Quincy, and the Adamses, let no man boast of them now. We are but serfs; pliant, supple menials of the slaveholders; the "niggers" of the Union. Slavery says to Massachusetts and Boston, I command you to catch my negro slave and return him to me. And Boston obeys her. Our Governor, our Mayor, and military force yield to the demand. All business is suspended for a week, that we may obey the bloody behest. Our courts are interrupted, our anniversaries are forsaken, our trade suffers to a vast amount, our laws are prostrate; all that Col. Charles Suttle may have his twelve hundred dollars' worth of negro flesh. We say our laws are prostrate. This is literally true. For eight days, there was no law of Massachusetts which could be enforced in Boston, if it conflicted in any degree with the *property claim* of Col. Suttle. A claim worth twelve hundred dollars, at the utmost; an issue no greater than many which are tried daily in our courts, and not of half so much consequence (to the claimant, we mean) as cases which occur every month or week,—was of so sacred a nature that the laws of a sovereign State al had to give way to it. An eminent lawyer c this city gave it as his opinion that after Burn was delivered up the writ of personal replevi could legally be served, and he be taken befor a Massachusetts court; but he coupled his opinion with the remark that this would bring on a conflict of authorities. And what if i did? Are conflicts of this sort unheard of? Are they not to be *preferred* to usurpation o authority and abject submission to illegal acts? Is Massachusetts merely a *province*, and not a State; and when she rebels, a *conquered* province? Is the line which separates State and National sovereignty to be wholly obliterated?

Are we to forget, in the fact that we are citizens of the Union, the previous and quite as important fact that we are *people of Massachusetts?* The whole of our political training for 25 years has been preparing us for this centralization of power in the government at Washington. We have not even got a Massachusetts militia. Every gun in the hands of the Boston soldiers yesterday, every gun in the State Arsenal, at Watertown, was furnished by the General Government, and the soldiers who were brought out to "keep the peace," but were used for the purpose of carrying off the fugitive, are as much troops of the United States as the soldiers from Portsmouth, or the Navy Yard marines.

The part taken in this proceeding by the Mayor of Boston and the soldiers whom he ordered out is one to be remembered, with shame and indignation. We can understand some thing of the feeling which leads the soldiers officers to obey orders, and are therefore disposed to be harsh or unreasonable tow individuals among the troops. But we tell th one and all, that *they* carried off Bu Without their presence at the entrance of streets, keeping the populace from the route the procession, Burns could not have be taken away. Without violence or bloodshe in all probability, by the mere moving of th people, he would have been set at liberty, an justice and the laws would have been vin dicated. But they acted under orders. S did *not* the poor shivering imbecile who is a the head of our City Government. He has no such excuse for the disgraceful part he took in returning Anthony Burns to the hell of Southern slavery. He has not even the excuse which answered for Mayor Bigelow, viz: that the public sentiment of Boston was in favor of the rendition of the slave. The fifteen hundred merchants who volunteered to aid in carrying off Sims, were on the other side in this case, or many of them at any rate, and their places were filled by the vilest ruffians that could be found in the city.

And this leads us to speak of the real sentiment of the city, yesterday. It was gratifying to witness the strong and almost unanimous feeling of indignation with which the solemn scene in State street was witnessed. Th wealth of Boston was in a good degree ema cipated from its close alliance with the weal of Virginia; and we believe that the *Courie Journal*, and *Mail* were the only newspape (except, of course, the pensioned *Post* an *Times*) which openly took sides with the negro-catchers against the people. We cannot help mentioning the noble course of the *Transcript*, which day after day stood up so manfully for the right.

But the topic opens before us into countless avenues. We shall have plenty of time for discussion of the whole affair, and of the lessons which it teaches. One word must, however, now be said. EDWARD G. LORING is the chief culprit. Not a single man who has been engaged in the business of seizing negroes, from Grier to Ingraham, from Kane to Curtis, has behaved worse than Loring. With a ques of identity, on which the evidence was conflict ing, he has allowed Burns to be returned to th untold and half-imagined woes of slavery, upo evidence wrenched from him (if obtained at all) by his tyrannical claimant.

This decision, while it illustrates that complete *negation of all law*, which is the characteristic and animating principle of the Fugitive Slave bill, also illustrates, in an unmistakable manner, the character of Edward G. Loring. He needs not to be called names, if names bad

enough could be found for him. He ought to be forever held infamous by the people of Boston and of Massachusetts. He ought to be driven out from the community he has disgraced, as Matt. Ward is driven out of Louisville. Let him be a marked man forever. Let Harvard College be required to repudiate his teachings, and the Legislature compelled to fill his judicial station with another and better man. Let the public sentiment which he has outraged, follow him. Let it concentrate itself upon him. The miserable rat-catchers, Hallett and Freeman, and Parker and Thomas, must also be made to feel the popular disapprobation. The people have the matter in their own charge. Let them dispose of the miscreants as they deserve.

The political duties which now devolve upon the people, must be considered at another time.

THEY HAVE CARRIED HIM OFF.

The kidnapped man was taken from the Court House about half-past two o'clock, in a hollow square of deputy marshals commissioned for the occasion and armed with swords and revolvers. There was towards an hundred of of them—all fit instruments for such work. A circle of men with drawn swords was formed around the man in the square.

The Marshal's force was preceded and followed by United States soldiers. The whole military force of the city was under arms, parading up and down the streets, doing police duty, and ready for anything that might turn up. There was an immense crowd of people in the streets to behold this crushing out of liberty, and those concerned in the nefarious work were received with hisses and groans wherever they appeared, save when they chanced to encounter some of their own creatures.

That man likes freedom as well as you or I, and he has the same right to it. But the whole power of the general government, supported by the whole civil and military power of Boston, and by the Governor of the State, has been employed to steal him, on the soil of Massachusetts, and force him into slavery. While we write he is on board the steamer John Taylor, and those who carried him off congratulating themselves upon their success, while the people on the wharves, together with the crews of the vessels in the neighborhood, are assailing them with vollies of hisses and groans.

ONE THING TO BE DONE.

Massachusetts and Boston must no longer be disgraced by a slave catching, ten dollar Commissioner, acting as Judge of Probate. The process of REMOVAL is not with the Governor, but with the Legislature. It may be done by address of the two branches, or by impeachment. The first is the practical method. We have hastily prepared the following form of petition. This, or something like it, must be signed by all the people and sent to the next Legislature; and men must be chosen to that body who will act up to its request:—

To the Legislature of Massachusetts:—The undersigned, citizens of Massachusetts, request of your honorable body to forthwith take measures for the REMOVAL OF EDWARD GREELEY LORING FROM THE OFFICE OF JUDGE OF PROBATE FOR SUFFOLK COUNTY.

Commissioner's Court.

FRIDAY MORNING, 9 o'clock.

The Court came in punctually at 9 o'clock, the room being crowded.

Commissioner Loring immediately proceeded to deliver his decision, saying the issue between the parties arises under the statute of 1850. It was urged that that is unconstitutional, on the ground of want of jury trial; but the rendition of the fugitive being a ministerial act, there is no provision in the Constitution for a jury trial in cases of such ministerial nature. He did not regard the objection to the record of the Virginia court as being of a character not to be received in this court, sustained by the language of the Constitution in reference to the courts. He thought the act of '50 was constitutional, being pronounced so by numerous authorities, the language of the Chief Justice of Massachusetts in the Sims case being quoted as peculiarly appropriate to the occasion. Whether the act is a harsh and cruel one is not to be considered here, and if good men should not enforce it, into whose hands then, should its execution fall?

The facts to be proved by the claimant are that Anthony Burns owed service and labor, and that he escaped from such labor and service. This he thought had been done by the record and testimony. The next fact was as to the identity of the prisoner, it being testified that he was in Virginia on a certain date, when it had been shown that he was here prior to the time alleged he was missing. This testimony being irreconcilable, we must look to other evidence corroborative of the claim; and this was found in the conversation which ensued on the night of the arrest between the claimant and the prisoner, which was testified to by several witnesses.

Under these circumstances, he deemed that THE CLAIMANT WAS ENTITLED TO A CERTIFICATE FROM HIM FOR HIS RETURN OF THE FUGITIVE!

When the Commissioner was narrating the conversation between claimant and prisoner, to the effect that the *latter was willing to go back*, BURNS SEVERAL TIMES SHOOK HIS HEAD NEGATIVELY, AND WITH MUCH FEELING.

The Court room was then cleared, and the prisoner taken in custody by the officers.

After the rendition of the decision, Mr. Dana, the counsel for the accused, and Rev. Mr. Grimes, the colored preacher, made a request to Marshal Freeman, to be allowed to accompany Burns to the cutter. After some delay, word was communicated to them from the Marshal that *this privilege could not be granted.*

The same gentlemen then made a request that they might be allowed to have a few parting words with the prisoner in his room. The Marshal took time to consider this request also; but, after a long delay, it was virtually denied, being granted upon

the sole condition that *the officers should remain in the room, and overhear the conversation.* The gentlemen of course refused to avail themselves of the opportunity under these conditions.

We learn that another proposition was made during the forenoon to purchase Burns, by parties desirous to set him free, he to be delivered up on board the cutter. We understand Mr. Hamilton Willis, with others, was interested in this transaction—but through the advice of Mr. District Attorney Hallett, the arrangements for the transfer were not consummated.

Just before the miserable *cortege* left the Court House, Messrs. Dana and Grimes made another request to say a few words to Burns in the entry-way, but, by a message borne by the younger Mr. Hallett, this also was refused.

THE PROCESSION.

At a quarter before 2 o'clock, Gen. Edmands, of the city military, announced to Marshal Freeman that all the arrangements had been consummated for preserving order in the streets, clearing the thoroughfares, &c.

The United States force, soldiers and volunteers, was then mustered for duty, and formed a line of march, as follows:—

Companies 1 and 4 of United States Artillery; next a company of United States Marines; next a hollow square, formed of volunteers and special deputies, dressed in citizens' dress, with United States sabres in their hands, and pistols in their belts; next a loaded six-pounder cannon, served by United States troops; and then another company of United States Marines. The whole was preceded by detachments of the Boston Lancers and Light Dragoons, for security in the streets.

The procession being formed, the hollow square was conducted before the eastern end of the court-house, when one of its sections entered, and soon returned with the prisoner, the Marshal, and numerous deputies. The prisoner looked bewildered, and was dressed in an entire new suit, hat, frock-coat, silk vest, pants, with a blue-checked silk neckerchief. He was at once conducted to the center of the hollow square, and the procession moved.

By this time, the streets were again filled with an excited populace, the windows were thronged with women and men, and the house-tops, even, as every available stand-point, were covered. The sensation was universal and profound. But one note of execration came from their lips—that of "Shame!" "Shame!" mingled with prolonged hisses.

Passing down Court street, the procession crossed the locality of the Boston Massacre in 1775, and the hoofs of horses, and the feet of hired ruffians, as well as those of the victim Burns, trod upon the spot where died CHRISPUS ATTUCKS, the first colored martyr of the American Revolution, as Anthony Burns is the last victim of that *Republican government* which that Revolution inaugurated!

Making a *detour* into Merchants' row, the infamous procession passed down the north side of Long wharf on to T wharf, at the end of which lay the steamer "John Taylor." All the stores, offices, &c., were closed, and not less than fifty thousand people witnessed the march.

At the corner of Merchants' Row and State street, the crowd being immense, and with difficulty restrained, sallies were made upon them by the horse-troop, in the course of which serious injury was done to unoffending individuals. An elderly gentleman, of over 60 years, unarmed and unresisting, whose name we did not learn, was badly cut over his head and face with a sword in the hands of an officer of the Lancers. The Boston Artillery, we were told, had orders to fire upon the people, but the order was countermanded by Col. Boyd. A valuable horse was bayoneted, and other damage done.

Upon the arrival of the procession at the end of T wharf, the U. S. troops went first on board the "John Taylor," and the volunteers standing guard with drawn sabres, the prisoner was conducted on to the deck, at precisely 20 minutes to 3, by Marshal Freeman—the rigging and decks of all the surrounding vessels, as well as the wharves and house-tops, and innumerable water-craft in the stream, being crowded and covered with the indignant populace, who manifested their feelings by groans, hisses, execrations and exclamations. The "Taylor" had the American ensign run up at its stern.

At 25 minutes past 3, the steam being on, and all things ready, the boat let go her moorings at T wharf,—the Marshal having previously left,—and steamed athwart the basin to the end of Central wharf, off which lay the U. S. revenue-cutter "Morris," to which, in five minutes more she was attached by hawsers,—the whole air, meanwhile, resounding with groans, hisses, execrations, &c.

Whether the prisoner was conveyed to the cutter or not from the boat, we could not observe; but at 25 minutes to 4, precisely, both vessels moved in a straight line down the harbor,—and the vast multitude, on land, water, house-tops, and shipboard, having given their last look at the saddening and mortifying spectacle, rapidly passed away from this section of the awful panorama.

The troops were soon after dismissed, and returned to their armories. Business was partially renewed; but all over the city knots of interested and indignant citizens gathered to talk over the events and atrocities of the day!

Incidents.

Immediately on the rendition of the decision, the utmost feeling was evinced.

All the stores on either side of Court street were at once closed—the occupants refusing to do business under such depressing influences.

The *Commonwealth* office put out from its elevated windows, six American flags, heavily draped in black. From its corner windows to the opposite corner, were strung festoons of black cambric, that were seen from all sections.

The law-office of John C. Park and John C. Danforth, on Court square, immediately in front of the Court-house door, was draped from its windows with black.

From the windows of T. P. Chandler's, and Bernard Roelker's, offices, 39 Court street, were displayed *ladies' silk mantles*, their fair owners occupying those positions, being some of the most gifted and well-known of our anti-slavery friends.

The hat store of A. N. Cook & Co., No. 17, and the tailoring store of Jacobs & Deane, No. 21 Court street, were both heavily draped in black—both about the signs and doors, as well as on the shade-frames beyond the side-walk.

The law offices of Chas. E. Pike, D. A. Perkins, and J. A. Butler 27 Court street, were also festooned with alternated white and black cambric, presenting a saddening appearance.

The office of John A. Andrew and Theophilus P. Chandler, No. 4 Court street, corner of Wash-

ington, was also draped most appropriately and significantly.

An incident of the general feeling is shown in the decorating of Messrs. Pike, Perkins & Butler's offices, alluded to above. The *white* cambric was put out first, when it was greeted with a few hisses, the people not knowing what it meant. When, however, the *black* was presented, which was to contrast with the white, cheers upon cheers demonstrated the appreciation of the act.

About half-past ten o'clock, a section of the Light Dragoons, mounted, passed up by the Old State House, and were greeted with groans, hisses, pointed fingers, and one universal shout of "Shame! shame!"

We learn that J. K. Hayes, formerly Superintendent of the Tremont Temple, recently appointed a Captain of the Police and Watch, refused to aid the disgraceful act, and resigned his office. Honor to him!

From the store of the venerable Samuel May, corner of State and Broad streets, was extended across the street drapery of black, from which hung two American ensigns, *union down!* The melancholy *cortege* has to pass beneath this token of distress.

At an early hour of the morning a brass cannon, belonging to the United States, was mounted in Court square, so as to command the entrance to the Court House, surrounded by marines. Its appearance did not allay at all the excitement.

The Mayor issued a bulletin about 11 o'clock, saying Gen. Edmunds and the Chief of Police had discretionary power to preserve the public peace. This indication of *martial law* did not seem to suit our peacible community.

At quarter to 12, the entire regiment of Boston troops passed down State street, witnessed by tens of thousands of Massachusetts men, and greeted with universal groans and hisses, which continued during the entire march.

At about 12 o'clock, a *black coffin* was displayed at the corner of Washington and State streets, labelled in large characters—LIBERTY. The sensation created by its appearance was very great.

At 12 o'clock, a large detachment of Police cleared the streets from the Court House to the foot of the Old State House—the horse and other troops of the city preserving the line of march from that point to the end of Central wharf.

VIOLENT ASSAULT UPON RICHARD H. DANA, JR.—About ten o'clock last night, R. H. Dana, Jr., and Anson Burlingame, started to walk over to their residences in Cambridge. Walking down Green street, when opposite Allen's oyster saloon, they passed a gang of fellows, two of whom approached suddenly, and jostled them. One of the ruffians then stepped forward and struck Mr. Dana a severe blow, bringing him to the ground. He then fled, and Mr. Burlingame followed him, chasing him through an avenue, into the saloon.—Some of the squad then approached, and he went back to Mr. Dana, who was carried into Dr. Salter's office, and taken care of. He is badly hurt in the eye, and one of his teeth is broken, but we are glad to learn that his injury is not very serious.

No doubt the outrage was committed by one of Marshal Freeman's guardians of the *law*, who in the employment of the President of the United States, has been teaching the people their constitutional duties during the past week.

DANE LAW SCHOOL.—Loring, the slave-catcher, is a lecturer before this institution. We have already spoken of the fact that he was hissed by the students last week after he had issued his warrant. We look to the students for some further expression of their disapprobation. If they listen for a moment longer to the teachings of such a man, they will forfeit all respect from the community. *The Bar*, with the exception of the poor pettifoggers who have acted as counsel for Suttle, have behaved nobly throughout all this trial. Let the young lawyers at the Dane School show that they are worthy of their noble profession.

We are informed that there have been no lectures at this school, during the past week, on account of the prevailing excitement, caused by the slave case. Thus the slave power, not content with putting the city under martial law, interrupts the course of instruction at the University.

OUTRAGE BY A LANCER.—Three correspondents have written to us relating the circumstances of a brutal assault upon an old man, near the Custom House. While the kidnappers were passing, an old man, who seemed to be partially intoxicated, attempted to cross from the Custom House to the end of Long wharf. He passed two of the guard, without molestation, when one of the officers of the Lancers rode up to the old man, and struck him a heavy blow with the edge of his sabre, knocking him down and cutting a large gash in his head. We do not know the name of the brutal assailant.

Daily Evening Traveller.

BOSTON:
SATURDAY, JUNE 3, 1854.

The Excitement of the Day.

An excitement—with the exception of the single outbreak at the commencement of it, not marked by violence, but yet characterized by a deep feeling,—has pervaded our community for a whole week, in consequence of the arrest of a negro man, under the Fugitive Slave Law of 1850, as a fugitive from service from Virginia. So far as the excitement has been violent in its manifestations, we are not aware that it has been essentially different from that which was exhibited here under similar circumstances two years ago. Nor is it probable that there has been any absolute change of public sentiment in regard to the character of the law which has now been, and which was then enforced under peculiar circumstances. The Fugitive Slave Law was always an offensive one to this community—as much so as to any portion of the free or non-slaveholding States. It has been more than offensive; it has been odious and detestable—revolting, not only to our innate ideas of justice, but repulsive in the highest sense to the genius and long established and cherished principles of our local institutions. By virtue of these institutions slavery cannot exist here, and the manacles of the slave who is such under the institutions of the South, fall from his limbs as soon as he treads upon our soil by the voluntary consent of his master. But the Constitution, which is the sacred bond of our national Union, binds us, however unwillingly, to render up the slave who comes to us as a fugitive against the master's consent. Our obligations under this constitution, and not our sense of natural justice, have constrained us heretofore to acquiesce in this obnoxious law. The terms of the enactment are indeed more rigid than we have admitted to be necessary to the fulfilment of the purposes of the constitution; but an obligation of another,

though collateral nature, has imposed upon us the duty of submission even to the distasteful and hateful requirements of the present Fugitive Slave Law. It formed a part of a compromise by which, with honorable intent, and as a forlorn-hope for preserving national union and peace, the free States bound themselves to maintain the constitutional rights of the slave States, at the expense of their own feelings and convictions of right. As law-abiding citizens, we have no occasion to regret that we have faithfully abided by our contract. Our community has never felt called upon to co-operate actively in the execution of the Fugitive Slave Law, but to yield a passive acquiescence in its operation, and to oppose no hindrances to its execution. The sacrifices of feeling, rising almost to conscientious scruples, which we have made to redeem this unwilling compromise, afford the best evidence of our unmeasured devotion to the Union. The exceptions to the rule of action which has thus been observed, and the occasional disposition which has been manifested to oppose violent resistance to the law, have originated with a class which exists among us, as in all communities, who reason from abstract principles and set aside all considerations of expediency. Wholly repudiating the obligations of the constitution itself, and denying all allegiance to a law which in their judgment, and in their consciences no doubt, they believe to be so unjust as to be without binding force, they are consistent, though in error, in their hostility to it, even though that hostility extends to forcible resistance. Those who thus reason and act, however, constitute but a small portion of our community. The course which their erring judgments, or their conscientious scruples, have prompted them to pursue, has imposed upon others, who compose the great majority of our people, the unwelcome but inflexible duty of assuming a hostile and compulsory attitude towards those who are their neighbors and friends, in order to maintain the complete supremacy of the law. By struggles of feeling and conflicts of judgment, such as we have here described, the law has so far triumphed. We have just witnessed the result of the latest conflict in this sad warfare. We earnestly hope it may be the last.

Although, as we have remarked, there has been no absolute change of sentiment in this community, upon this vexatious and threatening subject, it is too obvious to be denied that there has been a material change of feeling, a marked relaxation of the sense of duty by which our conduct in reference to the Fugitive Slave Law has heretofore been actuated. This change has been produced by an unexpected and ill-timed, and wholly inexcusable breach of trust on the part of the South, in repealing the Missouri Compromise, and thus repudiating their unexecuted part of a compact which lies at the very foundation of this most harrassing and menacing of all our national questions. It is not pretended that the passage of the Nebraska Bill, though virtually a violation of law on the part of the South, has absolved us from obedience to the Fugitive Slave Law; but it cannot be denied that the very boldness with which the faithless act has been perpetrated has provoked us to *calculate the value of our faithfulness*. It has exasperated the public mind, and engendered a profound disgust for all laws which partake of the nature of a compromise on the question of slavery; and it has paralyzed our sense of obligation to such compacts.

While, therefore, there is no disposition to resist the Fugitive Slave Law by any other than moral force, there is an unwillingness to co-operate, in the slightest degree, in its execution; and an enlarged and more determined purpose to spare no honorable effort to repeal the law or to modify it *and reduce its exactions to the very lowest requirements of the Constitution*. To this sentiment we believe the community is now generally, almost universally aroused. If we did not know that the ties of party are stronger than the bonds of principle, we should be encouraged by the present tokens of public sentiment to believe, not only that the designs of the plotters of the Nebraska scheme will recoil upon their own heads, and that the results of the next popular elections will be an emphatic repudiation of the measure and of the men by whose votes it was carried; but that a suicidal blow has been inflicted upon the institution of slavery itself—such a blow at least as will totally annihilate the insidious influence and baneful power which it has so long and so successfully exerted to stifle the sensibility, blind the judgment, and quench the free spirit of the North.

The Armed Pageant of Yesterday.

The deed has been done. The Compromise has been observed. A law repugnant to the moral sentiment of this entire community has been executed. The fugitive from slavery has been carried through our streets guarded by a thousand bayonets, and an United States armed vessel has borne him back to the land of bondage!

But after all, this is only the beginning of the matter. The imposing array of military force, the fixed bayonets, the loaded guns and pistols, the drawn sabres, and above all, the trailing artillery, which the United States Marshal thought necessary to call to his aid in the execution of this law, have been like leaven in the public mind, which has worked, and will continue to work with mighty power. Our sober and peaceable citizens, as they stood jammed into corners by the bayonets and sabres of the military, yesterday; as they found themselves excluded from the marts of business by armed guards; as they were refused permission even to pass to the Banks to pay their notes, or to their offices of business; as they were made to feel that Boston was in state of seige, that martial law was established in the city—as they saw, and felt all this—they were constrainedto askwith deep emotion: Is all this necessary to preserve the peace of the most peaceable large city in the United States? Is all this imposing array of military force required to enforce a law of the United States? And, if so, can that law be just and righteous? Can a law which so outrages the public conscience as even to be thought to require such an army to enforce it, in such a community as this, be right in the sight of heaven?

The execution of the Fugitive Slave Law amidst such scenes as were witnessed in our streets yesterday, has done more to awaken the slumbering consciences of men, to open their eyes to the iniquity of the whole slave system, and to arouse within them the resolution to seek more earnestly its overthrow, than anything—than everything—that ever occurred in this community before. And this feeling will be borne, as on electric wires, to every portion of New England,by the hundreds of clergymen and others who were present at the anniversary meetings of the week.

If the effect of this most melancholy scene shall be—as we trust it will be—to awaken the North, and to unite all good and true men in opposition to the continued encroachments of the slave power of this country, then will God have brough good out of evil, and made the wrath of man to praise Him. And thus we trust it may be.

During the passage of the troops down State Street, sundry outrages took place. At the head of State Streot a bottle of vitriol was thrown among a company, but no one, so far as we can learn, was injured.

Near the Custom House, the horse of a teamster who was attempting to break the line was stabbed in the chest by the bayonet of a trooper, to the depth of three or four inches. This nearly led to a tragedy, for the captain of a company became so exasperated at the insults and assaults of the crowd as to order his company to present their muskets in a position to fire, but the remonstrance of a superior officer that the provocation did not justify him in resorting to such a severe measure, led him to reconsider his purpose.

The crowd, however, fearing that the Captain might give the order to fire, dispersed in a hurry.

A man in attempting to pass the guard at one of the streets in the lower part of State street, was repulsed. He persisted and had quite a contest with a soldier, seizing his sword, but was finally overpowered and taken into custody.

One man was arrested with a loaded pistol in his pocket. Jones, the colored man who testified in the defence of Burns, was arrested in State street for disturbing the peace by his zealous harangue relative to the wickedness of the proceedings. As he passed up State street in custody, he was greeted by the cheers of the crowd.

A brick was thrown at the guard of the fugitive as they were passing down State street, but injured no one.

A lancer's horse was injured in a melee with the mob, and a man was severely injured in the head by a stroke from a sword.

After Burns had been placed on board the Cutter, his appearance is differently reported by different persons. A writer in the Times says that his conduct was that of a person "perfectly reconciled." A writer in the Herald, however, who claims to have had an interview with him while on board, says he appeared much depressed. He said that he should never see Boston again, and that it made him feel sad to part with so many friends. He seemed to doubt about his freedom being bought after reaching Virginia. Col. Suttle, the owner, and his friend, Mr. Brent, were on board the Cutter, and seemed greatly delighted at the result of the reclamation. It seems that the owner refused, after the decision had been made by the Commissioners, an offer of Mr. Hamilton Willis, broker, State Street, for the purchase of the fugitive, after he had been placed on board the Cutter by the authorities. At Fort Independence, the detachment of the Artillery under Maj. Ridgely, with Capt. Couch, and Lieutenants Mack and Wilcox, were landed. At five minutes past six the steamer cut off from the Cutter, which proceeded on her way to her destination, the fugitive at last accounts being under the influence of an attack of sea-sickness. The people of the steamer cheered those on board the Cutter as she passed on her way, which was responded to by a single gun from the Cutter.

Just as the steamer John Taylor left the wharf, a man cried out, "Well, I'm glad the nigger's gone." Scarcely were the words out of his mouth, when a sailor stepped up, and with the exclamation, "You lubber!" knocked him over. The fallen man got up and showed fight, when he was knocked down a second time. He attempted to run off, when some one shoved a board between his legs, which again tripped him up. At last he reached the military and claimed their protection.

The day was one of intense labor to the Chief of Police and his Deputies, who performed the difficult and delicate duties with which they were charged, to the satisfaction of all. We saw a Police officer, armed only with a simple ratan, who, by the exercise of kindness and forbearance, kept the crowd in better restraint than did some of the military with the use of the sabre and bayonets, which some were only too free to use. The great majority of the military, however, behaved with much forbearance when in contact with the crowd. One company, while awaiting the approach of the fugitive, set up the song of "Oh carry me back to Old Virginia."

DAILY ADVERTISER

BOSTON:

SATURDAY MORNING, JUNE 3, 1854.

FINAL PROCEEDINGS IN THE CASE OF ANTHONY BURNS.—We give to-day the final proceedings in the Commissioners Court, consisting of the pronouncing, by Mr. Commissioner Loring, of his decision on the questions which were heard and argued before him, on Tuesday and Wednesday. This decision we give in extenso. Every lawyer who reads the reasoning of the Commissioner, will be satisfied that he could give no other decision in the case, than that the claimant was entitled under the law to the certificate which he claimed. Every one also who has read the report of the evidence in the case, must have felt satisfied, that if the prisoner had been in act in the city during the chief part of the month of March, as his counsel attempted to show, there could have been no difficulty in proving it, by testimony tenfold more abundant, more positive, and more conclusive than any that was produced. All good citizens, therefore, who are unwilling to see our Courts of Justice degraded, by a feeble or corrupt administration of the law, must be satisfied with the decision, as the only one which the facts of the case under the Constitution and laws of the country, admitted of being given.

Had the question to be decided been of a more doubtful character, and the facts such as to lead many minds to balance as to the weight of evidence in the case, we doubt not that in spite of the high state of excitement which has arisen, the decision of the magistrate to whom the determination of the question is by law entrusted, would have been quietly acquiesced in, and carried into execution without the slightest opposition. Under the actual state of facts, the decision was carried into execution, by the removal of the fugitive from the Court room in the custody of his master, and conducting him on board the vessel in the harbor, for the purpose of proceeding to Virginia quietly, and with no other obstacle than arose from the vast number of spectators who had assembled to be witnesses of the departure. So intense a curiosity, as is proved by the fact of so large an assemblage, can hardly be accounted for but upon the supposition that there was a general expectation that there would be some lawless opposition to the execution of the decision of the magistrate. We are of opinion, however, that there was no substantial ground for such an apprehension, though it was certainly most proper for those who were entrusted with the execution of the law, to be fully prepared to enforce it at all hazard. Such precaution in all cases of popular excitement, and especially when there have been

distinct and earnest exhortations to forcible resistance of the law, is imperatively demanded, by a proper regard for the public quiet and security. But in the present case there was, perhaps, a far greater exhibition of military force for the preservation of order, than was necessary. In addition to a detachment of U. S. Artillery and two companies of U. S. Marines from the Navy Yard and forts in the harbor, a company of U. S. Infantry from New York, the whole volunteer militia of the Commonwealth in the city was ordered out by Major General Edmands, in obedience to a requisition from the Mayor.

It was erroneously stated in the Atlas yesterday, that Gov. Washburn had given orders to General Edmands for calling out the militia. This, we understand, is a mistake, the Governor having taken no part in the matter. This would in any case have been unnecessary, as the Mayor is fully authorized to call on the military authorities for aid, in an emergency demanding their interference for the preservation of the public peace.

The whole proceedings of the day were conducted with great prudence and caution to guard against any incident which could produce disturbance under an excited state of the public mind. We do not conceive that there was any serious danger of such disturbance. We did not, in fact, observe any indication of excitement in any considerable portion of the mass of people assembled. The chief motive which brought them together appeared to be the gratification of their curiosity, in being witnesses of whatever might take place. We give in another column a brief narrative of the principal incidents of the day.

ADJOURNED HEARING

Before Hon. Edward G. Loring, Commissioner of the Circuit Court of the United States for the First Circuit and District of Massachusetts, in the case of Anthony Burns claimed by Charles F. Suttle, of Virginia, as owing labor and service to him in Virginia, and as having fled to Massachusetts.

Seth J. Thomas, Esq. and Edward G. Parker, Esq., counsel for the claimant.

Richard H. Dana, Jr., Esq. and Charles M. Ellis, Esq., counsel for the alleged fugitive.

FRIDAY, June 2, 1854.

The Commissioner took his seat at 9 o'clock and proceeded to deliver the following decision:—

THE DECISION OF COMMISSIONER LORING — The issue between the parties arises under the U. S. Statute of 1850, and for the respondent it is urged that the statute is unconstitutional. Whenever this objection is made it becomes necessary to recur to the purpose of the statute. It purports to carry into execution the provision of the constitution which provides for the extradition of persons held to service or labor in one State and escaping into another. It is applicable, and it is applied alike to bond and free—to the apprentice and the slave, and in reference to both, its purpose, provisions and processes are the same.

The arrest of the fugitive is a ministerial and not a judicial act, and the nature of the act is not altered by the means employed for its accomplishment. When an officer arrests a fugitive from justice or a party accused, the officer must determine the identity, and use his discretion and information for the purpose.—When an arrest is made under this statute, the means of determining the identity are prescribed by the statute; but when the means are used and the act done, it is still a ministerial act. The statute only substitutes the means it provides for the discretion of an arresting officer, and thus gives to the fugitive from service a much better protection than a fugitive from justice can claim under any law.

If extradition is the only purpose of the statute and the determination of the identity is the only purpose of these proceedings under it, it seems to me that the objection of unconstitutionality to the statute because it does not furnish a jury trial to the fugitive is answered.

There is no provision in the Constitution requiring the *identity* of the person to be arrested should be determined by a Jury. It has never been claimed for apprentices nor fugitives from justice, and if it does not belong to them it does not belong to the respondent. And if extradition is a ministerial act, then to substitute in its performance, for the discretion of an arresting officer, the discretion of a commissioner instructed by testimony under oath, seems scarcely to reach to a grant of judicial power, within the meaning of the U. S. Constitution. And it is certain that if the power given to and used by the Commissioners of U. S. Courts under the Statute is unconstitutional—then so was the power given to and used by magistrates of counties, cities and towns, by the act of 1793. These all were Commissioners of the United States—the powers they used under the statute, were not derived from the laws of their respective States, but from the statute of the United States. They were commissioned by that and that alone. They were commissioned by the class instead of individually and by name, and in this respect the only difference that I can see between the acts of 1793 and 1850, is that the latter reduced the number of appointees and confined the appointment to those who by their professional training should be competent to the performance of their duties, and who bring to them the certificates of the highest judicial tribunals of the land.

It is said the statute is unconstitutional, because it gives to the record of the Court of Virginia an effect beyond its constitutional effect. The first section of the fourth article of the Constitution is directory only on the State power and as to the State Courts, and does not seek to limit the control of Congress over the tribunals of the United States or the proceedings therein. Then in that article the term "records and judicial proceedings" refers to such *inter-partes* and of necessity can have no application to proceedings avowedly *ex parte*. Then if the first section includes this record, it expressly declares as to "records and judicial proceedings," that Congress shall prescribe "*the effect thereof*," and this express power would seem to be precisely the power that Congress has used in the Statute of 1850.

Other constitutional objections have been urged here, which have been adjudged and re-adjudged by the Courts of the United States, and of many of the States, and the decisions of these tribunals absolved me from considering the same questions further than to apply to them the determination of the Supreme Court of this State in Simm's case, 7 Cushing 309 page, that they "are settled by a course of legal decisions which we are bound to respect and which we regard as binding and conclusive on the Court."

But a special objection has been raised to the record that it describes the escape as *from* the State of Virginia and omits to describe it as *into another State* in the words and substance of the Constitution. But in this the record follows the 10th section of the Statute of 1850, and the context of the section confines its action to cases of escape from one State, &c. into another, and is therefore in practical action and extent strictly conformable to the Constitution.

This Statute has been decided to be constitutional by the unanimous opinion of the Judges of the Supreme Court of Massachusetts in the fullest argument and the maturest deliberation and to be the law of Massachusetts as well as, and because it is a constitutional law of the United States, and the wise words of our revered Chief Justice in that case, 7 Cushing 318, may well be repeated now, and remembered always. The Chief Justice says:

"Slavery was not created, established or perpetuated by the Constitution; it existed before; it would have existed if the Constitution had not been made. The framers of the Constitution could not abrogate Slavery, or the rights claimed under it. They took it as they found it, and regulated it to a limited extent. The Constitution, therefore, is not responsible

for the origin or continuance of Slavery—the provision it contains was the best adjustment which could be made of conflicting rights and claims, and was absolutely necessary to effect what may now be considered as the general pacification by which harmony and peace should take the place of violence and war. These were the circumstances, and this the spirit in which the Constitution was made—the regulation of slavery so far as to prohibit States by law from harboring fugitive slaves, was an essential element in its formation, and the union intended to be established by it was essentially necessary to the peace, happiness and highest prosperity of all the States. In this spirit and with these views steadily in prospect, it seems to be the duty of all judges and magistrates to expound and apply these provisions in the constitution and laws of the United States, and in this spirit it behooves all persons bound to obey the laws of the United States, to consider and regard them.

It is said that the statute, if constitutional, is wicked and cruel. The like charges were brought against the act of 1793; and C. J. Parker, of Massachusetts, made the answer which C. J. Shaw cites and approves, viz: "Whether the statute is a harsh one or not, it is not for us to determine."

It is said that the statute is so cruel and wicked that it should not be executed by good men. Then into what hands shall its administration fall, and in its administration what is to be the protection of the unfortunate men who are brought within its operation? Will those who call the statute merciless commit it to a merciless judge?

If the statute involves that right, which for us makes life sweet, and the want of which makes life a misfortune, shall its administration be confined to those who are reckless of that right in others, or ignorant or careless of the means given for its legal defence, or dishonest in their use? If any men wish this, they are more cruel and wicked than the statute, for they would strip from the fugitive the best security and every alleviation the statute leaves him.

As I think the statute is constitutional, it remains for me now to apply it to the facts of the case.

The facts to be proved by the claimant are three:

1. That Anthony Burns owed him service in Virginia.

2 That Anthony Burns escaped from that service.

These facts he has proved by the record which the statute, sec. 10, declares "shall be held, and taken to be full and conclusive evidence of the fact of escape, and that the service or labor of the person escaping is due to the party in such record mentioned."

Thus these two facts are removed entirely and absolutely from my jurisdiction, and I am entirely and absolutely precluded from applying evidence to them. If therefore there is in the case evidence capable of such application, I cannot make it.

The 3d fact is the identity of the party before me, with the Anthony Burns mentioned in the record.

This identity is the only question I have a right to consider. To this, and to this alone, I am to apply the evidence and the question whether the respondent was in Virginia or Massachusetts at a certain time, is material only as it is evidence on the point of identity. So the parties have used it, and the testimony of the complainant being that the Anthony Burns of the record was in Virginia on the 19th of March last, the evidence of the respondent has been offered to show that he was in Massachusetts on or about the first of March last, and thereafter till now.

The testimony of the claimant is from a single witness, and he, standing in circumstances which would necessarily bias the fairest mind—but other imputation than this has not been offered against him, and from anything that has appeared before me, cannot be. His means of knowledge are personal, direct, and qualify him to testify confidently, and he has done so.

The testimony on the part of the respondent is from many witnesses whose integrity is admitted, and to whom no imputation of bias can be attached by the evidence in the case, and whose means of knowledge are personal and direct, but in my opinion less full and complete than those of Mr. Brent.

Then between the testimony of the claimant and respondent there is a conflict, complete and irreconcileable. On the question of identity, such a conflict of testimony is not unprecedented nor uncommon in judicial proceedings, and the trial of Dr. Webster furnished a memorable instance of it.

The question now is, whether there is other evidence in this case which will determine this conflict. In every case of disputed identity there is one person always whose knowledge is perfect and positive, and whose evidence is not within the reach of error, and that is the person whose identity is questioned, and such this case affords. The evidence is of the conversation which took place between Burns and the claimant on the night of the arrest.

When the complainant entered the room where Burns was, Burns saluted him, and by his christian name—"How do you do, Master Charles?" He saluted Mr. Brent also, and by his *christian name*—"How do you do Master William?" (To the appellation, "Master," I give no weight.)

Col. Suttle said, "How came you here?" Burns said an accident had happened to him—that he was working down at Roberts's, on board a vessel—got tired and went to sleep, and was carried off in the vessel.

Mr. S. Anthony, did I ever whip you?

B. No, sir.

Mr. S. Did I ever hire you out anywhere where you did not wish to go?

B. No, sir.

Mr. S. Have you ever asked me for money that I did not give it to you!

B. No, sir.

Mr S. When you were sick did I not prepare you a bed in my own house, and put you upon it, and nurse you?

B. Yes, sir.

Something was said about going back. He was asked if he was willing to go back, and he said.—Yes, he was.

This was the testimony of Mr. Brent. That a conversation took place was confirmed by the testimony of Caleb Page, who was present and added the remark that Burns said he did not come in Capt. Snow's vessel. The cross-examination of Brent showed that Col. Suttle said,—"I make you no promises, and I make you no threats."

To me this evidence when applied to the question of identity, confirms and establishes the testimony of Mr. Brent in its conflict with that offered on the part of the respondent, and then on the whole testimony my mind is satisfied beyond a reasonable doubt of the identity of the respondent with the Anthony Burns named in the record.

It was objected that this conversation was in the nature of admissions and that, too, of a man stupified by circumstances and fear, and these considerations would have weight had the admissions been used to establish the truth of the matters to which they referred to, i e. the usage, the giving of money, nursing, &c.; but they were used for no such purpose, but only as evidence in reference to identity. Had they been procured by hope or fear, they would have been inadmissible; but of that I considered there was no evidence.

On the law and facts of the case, I consider the claimant entitled to the certificate from me which he claims.

The Commissioner then handed the certificate to the claimant's counsel.

The Atlas.

SATURDAY MORNING, JUNE 3, 1854.

NEWS OF THE DAY.—Commissioner Loring decided yesterday that Anthony Burns be surrendered as a slave to his claimant. The unfortunate man was guarded by an armed force from the Court House to the end of Long wharf, and thence was embarked

ONE COMPROMISE KEPT.

The hopes which buoyed our community through Thursday, that the testimony would be deemed insufficient to justify the rendition of Burns to slavery, were yesterday dashed to the ground by the decision of the Commissioner in favor of the claimant. This decision was subsequently succeeded by the removal of the unfortunate man. The particulars of this removal our readers will find elsewhere. They are pregnant with the most humiliating and painful suggestions, which, in due time, shall find utterance. That our citizen soldiery should have been required, by the command of the Mayor of this city, to act as body guard to the officers of the Marshal's cortege—that through all the business hours of the day they should have been required to take forcible possession of business streets, excluding our citizens from their rights and privileges, calls for the deepest indignation. It was as gratuitous and unnecessary as it was unjust to the military, to place them, needlessly, upon a duty so repugnant to the best feelings of manhood, and insulting and tyrannous to our fellow-citizens.

As for the decision of Mr. Loring, it may be seen in full in another portion of our issue. By it Anthony Burns has been given up to his claimant. Those of our readers who have attentively followed the evidence in this case, will have had their own anticipations in regard to its decision, and will judge for themselves how far it corresponds with their own views and expectations. We are free to say that, for our part, it has utterly disappointed all our previous anticipations, and has filled our minds with painful feelings of surprise and regret. We shall not, at the present moment, dwell on the grounds upon which we had based our hopes that the Commissioner would decide that the claimant had failed to make out his case, that at least the testimony was so conflicting and irreconcilable as to create the strongest doubts, and that the person claimed must have all the benefit of those doubts, and therefore be declared a freeman, his servitude not having been satisfactorily established. Nor need we. They who have read the testimony, know already the points of weakness in it, upon which we founded these hopes. For can any man in his sober, deliberate judgment, declare that he believes that, if Burns had been an alleged criminal, instead of an alleged fugitive, on trial for an offence against law, he could have been convicted, with such flaws in the criminating evidence? Would a jury have waited long enough to leave their seats, before they pronounced the verdict of not proven? A criminal, even an alleged murderer, by the principles of common law, is entitled to the full benefit of whatever doubt may arise as to the establishment of his guilt. Is not a man on trial for that which should be as dear to him as his life, his freedom, entitled to the same benefits? If we understand Mr. Commissioner Loring aright, so far from this being the case, slavery, not freedom, is to have all the benefit of the doubts that may obscure the testimony.

Another point cannot fail to strike our readers in connection with this case. The rendition of Burns is based chiefly on his own supposed admission of his being the slave of the claimant. He has thus been made to condemn himself. Yet his testimony, if in favor of himself or of his right to his own freedom, would be inadmissible. That he did thus condemn himself we do not say nor believe, but that he was so interpreted, and that this was the turning point of the judgment against him seems to us to be quite apparent. The injustice and iniquity of thus granting to the one side, and that the side of slavery, that which is forbidden to that of freedom, cannot fail to strike every reasonable mind.

But we will not dwell any longer, at present, upon the Commissioner's decision, nor the legal grounds upon which he has based it. We are well aware that conflicting opinions exist in regard to it, and that there are those in our community, for whose judgments on legal questions we entertain a high respect, who hold that it is in conformity to the law. Be it so. The sooner a law involving such unrighteous principles shall be made to conform, by essential modifications, with the clearest principles of justice, the better will it be for the credit and honor of our country.

The events of yesterday, as well as of the past week, are full of suggestive as well as painful interest. We have not been blind or deaf to their teachings, nor do we mean to be dumb to them. If we have bowed in submission to law; if, during the past three years, we have waived our own convictions of the impolicy—we use no harsher term, of this odious statute, which may not be enforced, even in the law and order loving community of Boston, without the virtual declaration of martial law, and a state of siege—without our streets being made to bristle with cannon, bayonets and soldiery, it has not been because we have ever wavered for a moment in those views which we so often and so freely expressed at the time of its enactment. For the sake of peace and concord between the different sections of the Union, and in a well intended spirit of patriotism and compromise, our fellow citizens were willing to submit to its hateful requirements. They were at least willing to give the law a fair trial, in the belief and expectation that all compromises, whether they favored slavery or freedom, would be observed. In this they have been disappointed, and at the very moment when our community had been aroused to the deepest indignation by the Nebraska iniquity, our city has been subjected to the enforcement of a law which jars most painfully with all their sentiments of humanity, under circumstances of the most aggravating and intolerable description. Among these has been the inhuman interference of Franklin Pierce and his infamous District Attorney, to prevent the purchase of the claimed fugitive, the unwarrantable usurpation of the Court House by United States troops, to the interruption of our State Courts and the annoyance of citizens, the employment of ruffians from our brothels as guardians of the majesty of law. All this and more than this, our citizens have been forced to endure. Is it to be wondered at that an entire revulsion has taken place in our community, and that the repeal of a statute which subjects us to such indignities, in order to restore to slavery the fugitives from those who trample upon compromises, should now be as earnestly demanded as that the majesty of law should be vindicated by means which do not degrade and debase our common nature?

☞ We are requested to state that the report (that nobody ever heard,) that Jack Ketch, Esq., has declined to act in cases arising under the law for the hanging of murderers, &c., is without foundation.

He has not resigned his office of hangman, and will shrink from the performance of no duty, which is required of him by the laws of the land, which he has sworn to support.

Mr. Ketch may be found at his old office.

☞ We are credibly informed that a distinguished broker from State street, offered to purchase Burns of Suttle yesterday, deliverable on board the Revenue Cutter, and that Benj. F. Hallett interfered and finally persuaded the owner not to part with him.

If this be true, it adds to the infamy which this Hallett has already acquired, we think few *even* of *his* political friends can justify such inhumanity. L.

THE FUGITIVE SLAVE CASE.

BURNS RETURNED TO SLAVERY.

At an early hour yesterday morning, the crowd commenced assembling in the neighborhood of the Court House, and by nine o'clock, the hour of opening the Commissioner's Court, all the avenues leading to that building were filled with a great multitude of human beings. No great outside excitement was manifested, but a deep feeling of shame and sorrow seemed to pervade all.

At 7½ o'clock, A. M., a field piece was received from the Navy Yard and was planted in Court Square a little south of the easterly entrance of the Court House, and pointing towards Court street. The cannon was kept in that position until the time of taking away the fugitive, with the exception of a short interval, during which a detachment of artillerists went through the motions of loading and firing, (without discharging), for the evident purpose of giving information to the public as to the speed and precision with which it could be fired if necessary.

The several companies of M. V. M. in the city began to assemble at their respective armories at 7 o'clock in the morning, and soon after the streets resounded with the strains of martial music. The troops marched to the parade ground on the Common, where they formed into column, with the Lancers and Light Dragoons on the right, the whole under command of Major Gen. Edmands.

Immediately on the announcement of the decision of the Commissioner, Court Square was cleared by the police, of all persons who had no special business within its limits. Hon. John C. Park displayed mourning from his office in the square, and Messrs. Jacobs & Deane, and A. N. Cook & Co., and J. A. Andrew, on Court street, hung out similar signs of regret. The *Commonwealth* office presented six American flags, dressed in mourning, and lines of crape were stretched across the street. A coffin, with "Liberty" inscribed on it, was also suspended from one of the windows.

Efforts were made during the forenoon to purchase the freedom of Burns, to be delivered up on board the Cutter, but through the influence of Mr. Hallett, negotiations were broken off, and no further attempts were made. Col. Suttle, the claimant, did not appear in Court. He was probably on board the Cutter, awaiting the arrival of Burns. It is stated that the Mayor was applied to to order the bells to be tolled, but he declined to act in the matter.

The following letter was received by the Mayor:

BOSTON, June 2, 1854.

To His Honor the Mayor
and the Aldermen of the City of Boston:

Through all the excitement attendant upon the arrest and trial of the Fugitive, by the U. S. Government, I have not received an order which I have conceived inconsistent with my duties as an officer of the Police, until this day, at which time I have received an order which, if performed, would implicate me in the execution of that infamous "Fugitive Slave Bill."

I therefore resign the office which I now hold as a Captain of the Watch and Police from this hour, 11 A. M.

Most respectfully yours, JOSEPH K. HAYES.

During the whole forenoon Court and State streets were completely filled with people. At about noon, however, they were cleared by the police and military, and detachments of militia were placed at the corners of all intersecting streets. Many of the stores and counting-rooms were closed. Two persons were arrested for disorderly conduct; one was the Wm. Jones (colored), who testified for the defence at the examination, and the other a white man, named W. H. Bass. The latter had a pistol on his person. The windows of all the buildings fronting on the line of march were filled with spectators from an early hour in the day until after the melancholy procession had passed. The Independent Cadets, and three other companies, were stationed in the neighborhood of the Court House, to preserve order and perform guard duty.

At 2¼ o'clock, the Square was entirely cleared, and the U. S. Marines and Artillerists drawn up in front of the door. A body of some 125 individuals, (we cannot call them men), who had offered themselves to the Marshal for duty, were drawn up in the form of a hollow square, in the centre of which was the poor fugitive, the U. S. Marshal and his officers. They were armed with pistols and drawn cutlasses. This body-guard was composed of the dregs of society; nearly all were blacklegs and thieves, most of whom have been or ought to be inmates of our prisons. The sight was a disgrace to a city which claims the title of the Athens of America, and the sooner the aid of such men is refused by government officers, the earlier law will be considered as law, and not as an exhibition of brute force.

The procession was headed by the Boston Light Dragoons, Capt. Wright, followed by the U. S. Marines, body guard and artillery, the latter having with them their piece of artillery. It went down State street to Long wharf at a quick step, all the way receiving the groans and hisses of the indignant people, not the least emphatic of which proceeded from the steps of the Merchants' Exchange, where, it being high change, a great number of our first men were congregated.

Such a crowd as pressed on the sidewalks of State street we never before saw in Boston. At Commercial street, the procession turned off, and proceeded down that street, on the back side of Long wharf, to T wharf. The suddenness of the turn, which could not have been anticipated, caused a great crowd at the corner; they attempted no violence, but those in front were pushed on by those behind, and in our opinion, undue harsh measures were used by the military on the occasion. We are not aware that any one was hurt, but several persons were pushed down an open cellar way, and were in imminent danger of their lives in more ways than one.

The fugitive was placed on board the John Taylor, at the end of T Wharf. Her steam was up, but from several causes of delay, the John Taylor was unable to leave until about 3½ o'clock when she joined the Revenue Cutter Morris, in waiting in the stream, and put the fugitive on board and towed her below the Fort. Deputy United States Marshal John Riley, together with officers Geo. J. Coolidge, Asa O. Butman, Charles Godfrey, and William Black accompanied Burns to Virginia. The crowd was not permitted to go down T Wharf, and the various other wharves in the vicinity were filled with people. Long Wharf was especially so, the tops of all the vessels at its end, as well as their hulls, were completely covered with human beings.

During the entire day, and especially on the march down Court and State streets, the military, and all connected with the affair, were saluted with groans and hisses, which were not ceased until the steamer had left the wharf. The U. S. troops went down to the cutter, when those belonging at the Fort were landed there, and the Marines returned to the Navy Yard.

Near the corner of Chatham and Commercial streets, a teamster attempted to pass the line formed by Company A, Boston Artillery. He was ordered back, but refused so to do, and swore at the military. One of the company thrust a bayonet into his horse, whereupon the crowd pressed in to see what was the matter. Probably supposing that they intended an attack, Capt. Evans gave the order to his company to fire. The muskets were brought to the shoulders, when Lieut. Col. Boyd, who accidentally was near enough to hear the order, countermanded it, and thereby prevented the fatal result which must have followed. The horse, we understand, died from the wound.

A partially insane man, named John M. Clark, hailing from Vermont, received a slight wound on the head from a sabre in the hands of one of the mounted soldiers.

A gentleman connected with the evening press of this city, had been to the Custom House on business, and was returning to his office, when he was stopped by one of the soldiers on duty. He told his business, but was refused a passage; he again attempted to move along when the soldier thrust his bayonet at him; it went through his shirt collar and grazed his neck, causing a slight flow of blood. At this time a policeman came up, and politely passed the gentleman through the lines.

A boy whose name we did not learn, was run over, but not seriously hurt.

We are happy to mention the gentlemanlike manner in which the arduous duties of the police were performed during the entire day.

The following despatch was published in the evening papers of yesterday:—

Pawtucket, June 2.—The news of the surrender of Burns has just reached here, creating a profound sensation. The bells are tolling here and in the adjacent towns.

EVENING TRANSCRIPT.

SATURDAY EVENING, JUNE 3, 1854.

SUPREMACY OF LAW. In consequence of the large number of complaints which have reached us in regard to the action of the Mayor, in putting the streets of Boston under martial law, and preventing persons from using the streets and avenues for the lawful purposes to which they are dedicated, we have consulted the statutes in relation to the subject. It will be seen by those who examine the laws, that the Mayor exceeded his authority, and had the military yesterday executed their orders to fire upon those who came within the space guarded by military force, they would have committed murder in the eye of the law. The members of the Board of Aldermen wish to be relieved from the imputation now resting upon them, that any share of the odium of the tyrannous proceedings of yesterday rests with them. *They were not consulted.*

By Massachusetts law, no mayor *alone* can order the troops called out to enforce the laws, to fire upon the people. That great power is only given to the Governor, the Judge of any Court of Record or the High Sheriff. Of civil magistrates, other than the three classes above named, orders from *two* are required before arms can be used to disperse any unlawful collection of people. The law places mayors and justices of the peace upon the same footing in respect to this matter, and they must be on the spot, so that the military, in the language of the statute, can "*there receive*" orders from the civil magistrates.

In this view of the case, the gallant conduct of Major John C. Boyd in countermanding the order to fire given by Capt. Evans of the Boston Artillery, saved us from the evils incident to such usurpations as mentioned above. Massachusetts has thrown around her citizens the most ample legal protection against the inconsiderate action of those dressed in a little brief authority.

OVER DONE. We find the opinion prevails throughout the business community that the city authorities have made a *very decided mistake* in their action with reference to the proceedings of this day. They have assumed a fearful responsibility in virtually proclaiming martial law for so many hours, and practically making "*negro-catching*" municipal business. [Transcript of Friday.

Justice to ourselves demands that we should be absolved from the implication conveyed in the above paragraph. We not only *did not* advise the Mayor to call out the military to escort the poor fugitive to the slave vessel, but earnestly entreated him to do nothing to implicate the city of Boston in the disgraceful proceedings. We were desirous that the U. S. authorities should bear the whole responsibility of returning to slavery a freeman of Massachusetts. The Mayor is the *only one* of the "City Authorities," so far as we know, who ordered the Military of Massachusetts and the Police of Boston to assist in an act which belonged exclusively to the U. S. authorities.

GEORGE F. WILLIAMS,
B. L. ALLEN,
W. WASHBURN,
TISDALE DRAKE,
A. B. MUNROE.
} Aldermen of Boston.

THE SLAVE CASE. Upon the receipt of the intelligence that Burns was delivered up by Commissioner Loring to be sent back into slavery, the bells on the churches were tolled in Pepperell.

In Manchester, Mass., the church bells were tolled.

At Worcester, a large meeting was held on the Common, immediately after the receipt of Commissioner Loring's decision; the bells were tolled, and the stores of most of the prominent merchants were draped in mourning.

EFFIGIES ON BOSTON COMMON. Watchmen of the Fourth Division (of which the late Deputy Chief Eaton is now captain) about 1 o'clock last night, discovered three images suspended from the Liberty Pole on the Common, respectively labelled as follows:

MARSHAL FREEMAN,
Chief of Boston Ruffians,
and
Slaveholders' Blood-Hound.

—

BENJ. F. HALLETT,
United States District Attorney,
and
Attorney General to the Prince of Darkness.

—

COMMISSIONER LORING,
the $10 Jeffries
of 1854.

CARD TO THE PUBLIC. Mr. H. W. Allen, of Louisiana, at the request of his friends, Col. Suttle, and Mr. Brent, of Virginia, publishes a card in the Post this morning, thanking the United States officers and the citizens of Boston, for the firm and patriotic manner in which they have acted during the whole course of the late exciting trial. We copy the following paragraph from this card, written, it will be noticed, at the *request* of the claimant and his witness:

To the disconsolate widow of Mr. Batchelder—he who fell in defence of the laws of his country—I have to say that the city of Alexandria will take care of her. To the kind-hearted and philanthropic ladies and gentlemen who actually subscribed, and were anxious to purchase the freedom of Anthony Burns, I am authorized to say, that after his return to Virginia, they can fulfil their benevolent wishes.

PERSONAL. Col. Suttle, the claimant of the fugitive Burns, left the Revere House at an early hour yesterday morning, and proceeded to the Navy Yard at Charlestown, from whence he was taken by the barge on board the cutter Morris, where he remained during the day. He was apprised of the decision of Commissioner Loring some twenty hours before it was given in Court. This fact fully accounts for the action of the official gentlemen who volunteered to publicly announce acquiescence in the decision, "*whichever way it might be.*"

MILITARY REUNION.—Last evening, after the dismissal of the State troops, a number of field, staff and other officers, with a few invited guests, including Mayor Smith, partook of a collation at the Albion. Major General Edmands took the head of the table. Mayor Smith complimented the citizen soldiery on the manner in which they had performed their duty, and was in his turn complimented by a toast relative to his casting vote on the proposal to eject the U. S. authorities from the Court House. Other toasts complimentary of the military were given, and also one to Gov. Washburn, as the friend of the Volunteer Militia, and the representativs of the conservative sentiments of the people. Speeches were made and toasts given by officers present, after which the company separated.

ARGUMENT OF

RICHARD H. DANA, JR., ESQ.,

IN THE DEFENCE OF

ANTHONY BURNS,

Claimed as a Fugitive Slave, by CHARLES F. SUTTLE, of Virginia,

Before Edward G. Loring, Esq.,

COMMISSIONER,

MAY 31, 1854.

I congratulate you, Sir, that your labors, so anxious and painful, are drawing to a close. I congratulate the commonwealth of Massachusetts, that at length, in due time, by leave of the Marshal of the United States and the District Attorney of the United States, first had and obtained therefor, her courts may be re-opened, and her Judges, suitors and witnesses may pass and repass without being obliged to satisfy hirelings of the United States Marshal and bayoneted foreigners, clothed in the uniform of our army and navy, that they have a right to be there. I congratulate the city of Boston, that her peace here is no longer to be in danger. Yet I cannot but admit that while her peace here is in some danger, the peace of all other parts of the city has never been so safe, as while the Marshal has had his posse of specials in this Court House. Why, Sir, people have not felt it necessary to lock their doors at night, the brothels are tenanted only by women; fighting dogs and racing horses have been unemployed, and Ann street and its alleys and cellars show signs of a coming millenium.

I congratulate, too, the Government of the United States, that its legal representative can return to his appropriate duties, and that his sedulous presence will no longer be needed here in a private civil suit, for the purpose of intimidation, a purpose which his effort the day before yesterday showed every desire to effect, which, although it did not influence this Court in the least, I deeply regret your Honor did not put down at once, and bring to bear upon him the judicial power of this tribunal. I congratulate the Marshal of the United States that the ordinary respectability of his character is no longer to be in danger from the character of the associates he is obliged to call about him. I congratulate the officers of the army and navy that they can be relieved from this service, which as gentlemen and soldiers surely they despise, and can draw off their non-commissioned officers and privates, both drunk and sober, from this fortified slave-pen, to the custody of the forts and fleets of our country, which have been left in peril, that this great Republic might add to its glories the trophies of one more captured slave.

I offer these congratulations in the belief that the decision of your Honor will restore to freedom this man, the prisoner at the bar, whom fraud and violence found a week ago a free man on the soil of Massachusetts. But rather than that your decision should consign him to perpetual bondage, I would say—let this session never break up! Let us sit here to the end of that man's life, or to the end of ours. But, assured that your Honor will carry through this trial the presumption which you recognized in the outset, that this man is free until he is proved a slave, we look with confidence to a better termination.

Sir Matthew Hale said it was better that nine guilty men should escape than that one innocent man should suffer. This maxim has been approved by all jurists and statesmen from that day to this. It was applied to a case of murder, where one man's life was on one side and the interest of an entire community on the other. How much more should it be applied to a case like this, where on the one side is something dearer than life, and on the other no public interest whatever, but only the value of a few hundred pieces of silver, which the claimant himself, when offered to him, refused to receive. It is not by rhetoric, but in human nature, by the judgment of mankind, that liberty is dearer than life. Men of honor set their lives at a pin's fee on a point of etiquette. Men peril it for pleasure, for glory, for gain, for curiosity, and throw it away to escape poverty, disgrace or despair. Men have sought for death, and digged for it as for hid treasure. But when do men seek for slavery, for captivity? I have never been one of those who think human life the highest thing. I believe there are things more sacred than life.—Therefore I believe men may sacrifice their own lives, and the community, sometimes the single man, may take the lives of others. Such is the estimation in which it is held by all mankind.—No! there are some in my sight now, who care nothing for freedom, whose sympathies all go for despotism, but thank God they are few and growing less. Such is the estimate of life compared with freedom, which the common opinion of mankind, and the common experience of mankind has placed upon it. Here is a question of a few despised pieces of silver on the one hand, and on the other perpetual bondage of a man, from early manhood to an early or late grave, and the bondage of the fruit of his body forever. We have a right, then, to expect from your Honor a strict adherence to the rule that this man is free until he is proved a slave beyond every reasonable doubt, every intelligent abiding misgiving, proved by evidence of the strictest character, after a rigid compliance with every form of law which statute, usage, precedent has thrown about the accused as a protection.

We have before us a free man. Col. Suttle says there was a man in Virginia named Anthony Burns; that that man is a slave by the law of Virginia; that he is *his* slave, owing service and labor to *him*; that he escaped from Virginia into this State, and that the prisoner at the bar is that Anthony Burns. He says all this. Let him prove it *all!* Let him fail in one point, let him fall short the width of a spider's thread, in the proof of all his horrid category, and the man goes free.

Granted that all he says about his slave in Virginia be true—is this the man?

On the point of personal identity, the most frequent, the most extraordinary, the most notorious, and sometimes the most fatal mistakes have been made, in all ages. One of the earliest and most pathetic narratives of Holy Writ, is that of the patriarch, cautious, anxious, crying again and again, "Art thou my very son Esau?" and by a fatal error, reversing a birth-right, with consequences to be felt to the end of time. You know, Sir—they are matters of common knowledge—that a mother has taken to her bosom a stranger for an only son, a few years absent at sea. Whole families and whole villages have been deceived and perplexed in the form and face of one they have known from a child. You have found it difficult to recognize your own class-mates, at the age of three or four and twenty, who left you in their sophomore year. Brothers have mistaken brothers. We have the Comedy of Errors. Let us have no Tragedy of Errors, here! The first case under this statute, the case of Gibson, in Philadelphia, was a mistake. He was sworn to, and the Commissioner was perfectly satisfied, and sent him to Maryland. Against the will of the claimant, from the humanity of the Marshal, who had his doubts, and would not leave the man at the State line, but went with him to the threshold of the door of the master's house, the mistake was discovered before it was too late. In the late case of Freeman, in Indiana, the claimant himself was present, and the testimony was entirely satisfactory, and he was remanded, but it turned out a mistake, and he has recovered, I am told, $2,000 in damages. These are the mistakes discovered. But who can tell over to you the undiscovered mistakes! The numbers who have been hurried off, by some accidental resemblance of scars or cuts, or height, and fallen as drops, undistinguishable, into the black ocean of slavery?

Make a mistake here, and it will probably be irremediable. The man they seek has never lived under Col. Suttle's roof since he was a boy. He has always been leased out. The man you send away would be sold. He would never see the light of a Virginia sun. He would be sold at the first block, to perish after his few years of unwonted service, on the cotton fields or sugar fields of Louisiana and Arkanzas. Let us have, then, no chance for a mistake, no doubt, no misgiving!

What, then, is the evidence? They have but one witness, and one piece of paper. The paper cannot identify, and the proof of identity hangs on the testimony of one man. It all hangs by one thread. That man is Mr. Brent. Of him, neither you nor I, Sir, know anything. He tells us he is engaged in the grocery business, and lives in Richmond, Virginia. Beyond this, we know nothing good or bad. He knew Burns when a boy, running about at Col. Suttle's, too young to labor. He next hired him himself, in 1846, and '7. This was seven years ago. He says Burns is now 23 or 24 years of age. He was then 16 or 17 years old. He is now a matured man.

Since that time he has leased him, as agent for Col. Suttle, but does not seem to have been brought in close contact with him, or to have done more than occasionally meet him in the streets. The record they bring here describes only a dark complexioned man. The prisoner at the bar is a full blooded negro. Dark complexions are not uncommon here, and more common in Virginia. The record does not show to which of the great primal divisions of the human race, the fugitive belongs. It might as well have omitted the sex of the fugitive. It says he has a scar on one of his cheeks. The prisoner has, on his right cheek, a brand or burn nearly as wide as the palm of a man's hand. It says he has a scar on his right hand. A scar! The prisoner's right hand is broken, and a bone stands out from the back of it, a hump an inch high, and it hangs almost useless from the wrist, with a huge scar or gash covering half its surface. Now, Sir, this broken hand, this hump of bone in the midst, is the most noticeable thing possible in the identifying of a slave. His right hand is the chief property his master has in him. It is the chief point of observation and recollection. If that hand has lost its cunning or its power, no man hears it so soon and remembers it so well as the master. Now, it is extraordinary, Sir, that neither the record, nor Mr. Brent say anything about the most noticeable thing in the man. Nowhere in Mr. Brent's testimony, does he allude to it, but only speaks of a cut. The truth is, please your Honor, one of two things is certain here. If Mr. Brent does know intimately Anthony Burns of Richmond, and has described him as fully as he can, the prisoner is not the man. Anthony Burns was missing, and Mr. Brent hurried down to Alexandria to tell Col. Suttle. The record is made up, which is probably still only Mr. Brent on paper. Mr. Brent comes here with Col. Suttle, as his friend. Emisseries are sent out with the description in their hand, and they find a negro, with a huge brand on his cheek and a broken and cut hand, and that is near enough for catchers, paid by the job, to a "dark complexioned man," with "a scar on the cheek and on the right hand." Mr. **Brent knows, and does not swear otherwise, that** the Anthony Burns he means had only a scar or cut, and he distinctly said "no other mark." But still he swears to the man. Indentification is matter of opinion. Opinion is influenced by the temper and motive and frame of mind. Remember, Sir, the state of political excitement at this moment. Remember the state of feeling between North and South, the contest between the slave power and the free power. Remember that this case is made a State issue by Virginia, a national question by the Executive. Reflect that every reading man in Virginia, with all the pride of the Old Dominion aroused in him, is turning his eyes to the result of this issue. No man could be more liable to bias than a Virginian, testifying in Massachusetts, at this moment, on such an issue, with every powerful and controlling motive on earth enlisted for success.

Take the other supposition, which may be the true one, that Mr Brent does not know Anthony Burns particularly well. He goes down to Alexandria to tell Col. Suttle that he has escaped. The record is made up there, as best they can. Mr. Brent did not go there as a witness to identify, and does the best he can. He does not recollect whether he is a negro or mulatto, or of what shade, so he calls him "dark complexioned," and he can speak only of a scar, he does not know on which cheek, and of a scar on the hand. Beyond this, he is uncertain. If this is so, your Honor can have no satisfying descripiion of Anthony Burns, the slave of Col. Tuttle, if such a person there be.

But there is, fortunately, one fact, of which Mr. Brent is sure. He knows that he saw this Anthony Burns in Richmond, Virginia, on the 20th day of March last, and that he disappeared from there on the 24th. To this fact, he testifies unequivocally. After all the evidence is put in on four side to show that the prisoner was in Boston on the 1st and 5th of March, he does not go back to the stand to correct an error, or to say that he may have been mistaken, or that he meant only to say that it was *about* the 20th and 24th. He persists in his positive testimony, and I have no doubt he is right and honest in doing so. He did see Anthony Burns in Richmond, Va., on the 20th day of March, and Anthony Burns was first missing from there on the 24th. But the prisoner was in Boston, earning an honest livelihood by the work of his hands, through the entire month of March, from the 1st day forward. Of this your Honor cannot, on the proofs, entertain a reasonable doubt.

William Jones, a colored man, well known in this city, who works for the city, and for the Mattapan Company, and for others, and entirely unimpeached, testifies that on the first day of March he met the prisoner in Washington street. He knows the man. He tells you of all the places he went to with him to find work for him to do. He received him into his house as a boarder on that day. On the 5th day of March they began working together at the Mattapan works, in South Boston, cleaning windows and whitewashing, and worked for five or six days. Then, on the 18th they worked at the City Building. Then Burns left him for another employ. Jones cannot be mistaken as to the identity. The only question would be as to the truth of his story It is a truth or it is a pure and sheer fabrication. I saw at once, and as every one must have felt, that a story so full of details, with such minuteness of dates and names and places, must either stand impregnable or be shattered to pieces. The fullest test has been tried. The other side has had a day in which to follow up the points of Jones' diary, and discover his errors and falsehoods. But he is corroborated in every point.

Mr. Drew, the clerk of the Mattapan works, says that Jones and the prisoner cleaned the windows and did the whitewashing of that establishment from the 5th to the 10th of March. He has an entry of the first day's payment in his card book on the 5th. Various other payments were made at intervals, until the 28th, when a final settlement was had. This settlement included Jones' work in painting. which went on after the window-cleaning was done. He says that after he settled with Jones, the prisoner came to him to know how much he paid Jones for his work, and he told him. He says he heard that he was wanted as a witness, and thought it a joke, and came down here and was told that the man claimed as a slave had worked for him. He came into the room and recognized him at once, and the prisoner recognized the witness. His testimony corroberates Jones in another particular. Jones says he remembers the dates from the fact of a dispute between him and the prisoner, which led him to ask Mr. Russell to enter the dates of the prisoner's coming to his house in his pocket book, as Jones himself does not write. This pocket book was produced by Jones, and Mr. Russell, who made the entries, was sworn by us, and has been here.

Mr. Whittemore is a member of the City Council, and was one of the Directors of the Mattapan Co. He made a journey to the West, from which he returned on the 8th day of March. On that day or the next, he went to the works, where his counting room is. The prisoner and Jones were cleaning the windows of the counting room. He noticed the peculiar condition of his hand, and the mark on his cheek. He is sure of the man and of the date. He heard at the armory of the Pulaski Guards, of which he is a lieutenant, of Jones's testimony, and said to himself and others, "I shall know *that man*," and came here to see. As soon as he saw him, he knew him.

Now, Sir, Mr. Whittemore, in answer to a question from me, whether he was under the odium of being either a Free Soiler or an Abolitionist, said that he was a Hunker Whig. The counsel thought this an irrelevant question. I told him I thought it vital. Not that the political relations of Mr. Whittemore could affect your Honor's mind, but that it shows he has no bias on our side. Moreover, I am anxious not only that your Honor should believe our evidence, but that the public should justify you in so doing. And there is no fear but that the press and the public mind will be perfectly at ease if it knows that your Honor's judgment is founded even in part, in a fugitive slave case, in favor of the fugitive, on the testimony of a man who has such a *status illæsæ existimationis*, as a Hunker Whig, who is eke a train-band captain in a corps under arms!

Jones says that they went to work every day at 7 o'clock. Mr. Culver, the foreman, and Mr. Putnam, a machinist, and Mr. Gilman, the teamster, of the works, say that the hour of work was changd to 6 1-2 A. M., on the first of April. They also are quite sure, from the course of the work and their general recollection, that it was done

early in March. Mr. Gilman has an additional recollection that it was a few days after pay-day, which was March 1st. Mr. Putnam has a memorandum which shows that he began his own work there on the 3d or 4th day of March, and he says Jones began cleaning the windows a few days after.

Then Mr. Brown, one of the city Police, now on duty, testifies that on entering the Court Room, he recognized the prisoner at once. He has no doubt of him. He first saw him at the Mattapan Works cleaning windows with Jones. He himself left off his work there on the 20th of March, as his memorandum and recollection show.—About ten days before he left off he changed his work to a new building in which there were no windows. The windows were cleaned in the old building and of course before the 10th of March. His attention was called to the man at the time. He spoke to him, and asked him to wash a certain window.

This is the testimony as to the Mattapan works. Is it not conclusive? It is clear that the work was done there by Jones and a colored man from the 5th to the 10th of March. Jones worked there at no other time. This man was the prisoner. On a question of identity, numbers is everything. One man may mistake, by accident, by design or bias. His sight may be poor, his observation imperfect, his opportunities slight, his recollection of faces not vivid. But if six or eight men agree on identity, the evidence has more than six or eight times the force of one man's opinion. Each man has his own mode and means and habits of observation and recollection. One observes one thing, and another another thing. One makes this combination and association, and another that. One sees him in one light or expression, or position, or action, and another in another. One remembers a look, another a tone, another the gait, another the gestare. Now if a considerable number of these independent observers combine upon the same man, the chances of mistake are lessened to an indefinite degree. What other man could answer so many conditions, presented in so various ways. On the point of the time and place, too, each of those witnesses is an independent observer. These are not links in one chain, each depending on another. They are separate rays, from separate sources, settling on one point.

Here we have the testimony of Mr. Favor, whom I know you have noticed as a respectable man, who remembers Jones bringing the prisoner to his shop, in Lincoln street, to find work, very early in March; and Stephen Maddox, a tailor, says that Jones brought the prisoner to his shop to find work. He remembers telling him that he should have no work for him for two months, as his outdoor work, cleaning, &c., did not begin so as to require help before the first of May. This is a natural observation, and it is as natural he should remember it. A poor man was applying for work. He was obliged to put him off, and, to show his sincerity, he explained to him the course of his work. He was obliged to sentence him to disappointment and delay for two months. He remembered it. It would be remembered by a kindly man, under such circumstances.

The attempt at contradiction as to the City Buildings fails. Mr. Gould confirms Jones's account that he worked there on the 18th or 17th of March. He does not recollect the prisoner being with him; but he admits that he was there only twice a day, and Jones said that the prisoner was there only an hour or so, to help him a little, without pay.

Mr. Brent puts his case resolutely and unequivocally on the ground that the man he means was in Richmond up to the 20th. We have proved that the prisoner was here on the 1st and 5th and 10th and 18th. This is inconsistent with the claimant's case. This witness does not pretend a mistake or doubt. They cannot pretend one in argument, because he has been in Court all the while, and is not recalled.

If we had the burden of proof, should we not have met it? How much more then are we entitled to prevail, where we have only to shake the claimant's case by showing that it is left in reasonable doubt?

Whatever confidence I may have in this position, I must not peril the cause of my client by any overweening confidence in my own judgment. I must therefore call your Honor's attention to the other points of our defence.

Assuming now, for the purpose of further inquiry, that all our testimony is thrown out, and let the case rest on their evidence alone. It is incumbent on them to show that the prisoner owes service and labor to Col. Suttle, by the laws of Virginia, and that he escaped from that State into Massachusetts.

Does he owe service and labor to Col. Suttle?

The claimant, perhaps, will say that the record is conclusive on the facts of slavery and escape, and that the only point open is that of identity. That is so if he adopts the proper mode of proceeding to make it so. Section 10 of the Fugitive Slave Law provides a certain mode of proceeding, anomalous, in violation of all rules of common law, common right and common reason, a proceeding that has not its precedent, so far as I can learn, in the legislation of any Christian nation, therefore to be strictly construed, and not to be availed of unless strictly followed. It provides that the questions of slavery and escape shall be tried, *ex parte*, in the State from which the man escaped, and not in the State where he is found. The hearing and judgment are to be there and not here. This judgment being authenticated is to be produced here, and the Commissioner here has only jurisdiction to inquire whether the person arrested is the person named in the judgment. He cannot go into the matters there decided, but only see if the record fits the man.

Section 6 of the Statute provides an entirely different proceeding. It authorizes the Court here to try the questions of slavery and escape, as well as identity, and requires them to be tried by evidence taken here, or certified from the State from which he escaped, or both. It is not pretended that this transcript of a record is such evidence. Now, which proceeding are we under? Doubtless under that provided in the 6th section. The claimant introduces Mr. Brent, and by him offers evidence to prove the fact of slavery, the title of Col. Suttle, and the escape. He goes fully into these points. This was not offered as a mode of proving identity. The identity was proved first, and then the other evidence was put in. It was professedly to prove title and escape. Parts of it were objected to as not competent to prove those points, and advocated as competent for that purpose, and on no other ground, and ruled in or ruled out on that ground. They introduced evidence tending to show that a certain negro woman was a slave of Col. Suttle, and that that woman was the mother of Burns, and that his brothers and sisters are slaves, and they introduced evidence tending to show an escape, in the same manner. After that, they offered the record and we objected to it, and it was received *de bene esse*, and its admissibility is now to be decided upon.

We say that the two proceedings cannot be combined. The jurisdiction and duties of the magistrate are different in the two cases. The rights of parties are different. It is evident that the statute makes them different proceedings and not merely different proofs, for they are not merely put into separate sections, but each section contains a repetition of the foundation of a proceeding, its progress, the decision and execution, and each provides for the receiving of evidence of identity. There is a different form of certificate required in the two cases. On the face of the statute they are two proceedings. You cannot combine *scire facias* on a record with a count in assumpsit, proving the original debt by parol. You cannot, on the *voir dire*, examine the party himself, and prove his interest by other evidence also.

Even if the record can be combined with parol proof, it can hardly be contended that it is conclusive against the proof the claimant himself puts with it. When the statute says it is conclusive, it means that the defendant is not admitted to contradict it by proof. But if the claimant introduces proof which overthrows its allegations, can he contend that it is conclusive? If he proves that the right to the certificate is in Millspaugh, and not in Col. Suttle, can he fall back on his record and claim a certificate for Col. Suttle? If he proves that the man did not escape, can he fall back on his record, and claim a certificate for an escaped fugitive?

I pray your Honor, earnestly, to confine this record—the venomous beast that carries the poison to life and liberty and hope in its fang—to confine it in the straitest limits. It deserves a blow at the hand of every man who meets it.

If your Honor considers the record as admissible, in other respects, and conclusive if admitted, we have objections to offer to it from the nature of its contents and form.

In the first place, it does not purport to be a "record of the matters proved." It is all in the way of recital. It says, "On the application of Chas. F. Suttle, who this day appeared and made satisfactory proof that, &c., it is ordered that the matters so proved and set forth be entered on the records of this Court," and there it ends. Well, have they entered the facts on the record? If so, I should like to see the entry. Where is the transcript of that record? All we have here is the porch to the building, with a superscription reciting what is to be found within. We are entitled to the building and its contents.

In the next place, the record does not, as I have already once observed, set forth a description of the person, "with such convenient certainty as may be." It does not tell you whether he is a negro, a mulatto, a white, or an Indian. The rest of the description would be full enough, if it fitted the prisoner at the bar. That goes, to be sure, to the point of identity. But let me remind you, Sir, here, that a scar is not a large brand, and that a scar is no adequate description of the state or appearance of that man's hand.

The record is also objectionable, because it does not allege that he escaped into another State. Unless he has escaped *into another State*, the *casus foederis* does not arise. And how is your honor to know that he did escape into another State. The only evidence you can legally receive is on the point of identity. If you proceed strictly by the record, you are without evidence of one great fact necessary to call into action the constitutional powers.

We have great confidence, please your Honor, that the record will be excluded on one or more of these points; or that, if admitted, we may control it by the claimant's own testimony.

Does he then, by the claimant's own evidence, owe to Col. Suttle service and labor?

Their evidence shows conclusively that he does not. Mr. Brent tells us that Col. Suttle made a lease of him to a Mr. Millspaugh of Richmond, in January last, and that he was in the service of Mr. Millspaugh when he disappeared. It is the ordinary case of a lease of a chattel. The lessee has the temporary property and control. The reversioner has no right to interfere with the possession or direction of the chattel during the lease. This proceeding has always been defended, by those who hold it to be constitutional, on the ground that it merely secures and affects the temporary control of the slave, and does not affect the general property. It is not a judgment *in rem*. There is no decree affecting title. If this is so, there can be no pretence of a right on the part of the reversioner to the certificate prayed for here. A little consideration makes this clear. The claimant says he has escaped without leave, and asks for power to reduce him into possession and under control again—into his own possession and under his own control. Now, Mr. Millspaugh has the sole right of possession and control. Mr. Millspaugh may allow him to come to Massachusetts and stay here until the end of the lease, if he chooses. Col. Suttle has nothing to say about it. If Mr. Millspaugh does not return him to Col. Suttle at the end of his lease, he is liable to Col. Suttle on his bond, which Mr. Brent tells us is given in these cases. Suppose your Honor should grant the certificate, and Col. Suttle should take the man to Mr. Millspaugh. Mr. Millspaugh would say to him, "Why are you carrying my man about the country? I have not asked or desired you to do any such thing?"

"But," says Col. Suttle, "I have a certificate from a Commissioner in Boston, certifying that he is now owing me service and labor, and authorizing me to take and carry him off."

"Then the Commissioner did not know that I had a lease of him."

"Yes, he did. Mr. Brent let that out. It came very near upsetting our case. But we got our certificate, some how or other, notwithstanding."

But no such answer will be given to any certificate to be issued by your Honor. On the contrary, when Col. Suttle goes back to Virginia and tells Mr. Millspaugh that he was refused the certificate, Mr. Millspaugh will say to him, "To be sure you were. Did not you know law enough to know, you and Brent together, that you had no right to the possession and control of the man I have hired on a lease. Did you suppose, the Boston commissioners would have so little regard for this species of property in Virginia as to give it away to the first comer?"

Beside this lease, leaving only a reversion in Col. Suttle, the reversion itself is mortgaged. Mr. Brent told us, in his simplicity, thinking he was all the time proving prodigious acts of ownership, that Col. Suttle mortgaged Burns, with other property, to one Towlson. This mortgage has never been paid or discharged, so far as we know. The evidence leaves it standing. Even if the reversioner could otherwise have this certificate, he cannot here, for there is a mortgage. A mortgage of a chattel passes the legal property, so that the mortgagor cannot maintain trover for its conversion. (Holmes v. Bell, 3 Cush.)

There is greater need for adhering to this rule as to the right of present possession and control in this proceeding than in ordinary actions, for an *escape* is an essential element in the claimant's case. To constitute an escape, the fugitive must have gone away against the will of the person having a right to say whether he shall go or come. This person is the lessee. As Col. Suttle could not authorize Burns to leave Virginia, so neither could he forbid his leaving it. He has simply nothing to say about it. He cannot authorize him to stay in Massachusetts, nor can he compel him to go away. He may say that if he cannot, his reversion is good for nothing. That is the case with all leases of chattels. He should think of that when he parts with his property. He does provide for it. He takes a bond. If the man is not returned to him at the end of his lease, let him look to his bond! Let him not come here, to Massachusetts, disturb the peace of the nation, exasperate the feelings of our people to the point of insurrection by this revolting spectacle, summon in the army and navy to keep down by bayonets the great instincts of a great people, haul to prison our young men of education and character, and persecute them even unto strange cities, and cause the blood of a man to be shed. Let him look to his bond! If he must peril life, disturb peace, outrage feelings and exasperate temper from one end of the Union to the other, let him do it for something that belongs to him, not for a mortgaged reversion in a man. Let him look to his bond!

Mr. Millspaugh, who alone has the right, if any one, to institute these proceedings, has done nothing about them. They do not produce even his affidavit.

In the next place, setting aside the difficulty about the lease, and the mortgage, and the identity, has the man ever escaped? He is said to have escaped from the control and possession of Mr. Millspaugh. How do we know that? The only evidence is that of Mr. Brent, and what does Mr. Brent know about it? He only knows that he was in Richmond on the 20th, and was missing on the 24th. He does not even say that he has ever spoken to Mr. Millspaugh about it, or that Mr. Millspaugh was at home, or has complained about it. Mr. Millspaugh may have given him leave, or may not care whether he is away or not. There is no evidence of an escape. There is only evidence that he is missing. He was there. Now (for the argument, grant it) he is here. What of it? Did he come away of his own will, and against the will of Mr. Millspaugh? Unless both these concur, there is no escape. There is no evidence on either point, except the evidence of the prisoner, which they have put it. Mr. Brent says that on the night of the arrest, Col. Suttle asked the prisoner how he came here. He replied that he was at work on board a vessel, became tired and fell asleep, and was brought off in the vessel. As they have put in this evidence, they are bound by it. This shows there was no escape, for it is the only evidence at all bearing upon the character of his act. Taking this to be true, as the claimants must, there is no *escape*. In Aves's case, 18 Pick., 193, and Sims's case, 7 Cushing, 285, it has been decided that the *escape* is the *causus fœderis* under the Constitution. No matter how the slave got here, if he did not voluntarily escape, against his master's will, unless both these elements concur, he cannot be taken back. Therefore the slave was held free, in a case where he and his master were both sent here by a superior power, in a public vessel. (Referred to in Sims's case.)

If there was any doubt about this matter of escape, the point should be determined against the claimant, because he has failed to produce proof within his power which would settle the matter.—He has not produced the only man beside the fugitive who knows whether he did escape or not.—

If he could not produce him in person, if there be a Judge or a Justice of the Peace in the Old Dominion, he could have brought his affidavit. He has had time to procure it since this trial began. He does not ask for a delay that he may procure it.

The only evidence, in this conflict, which can aid your Honor's judgment, is the evidence of the admission of the prisoner, made to Col. Suttle, on the night of the arrest. He was arrested suddenly, on a false pretence, coming home at night-fall from his day's work, and hurried into custody, among strange men, in a strange place, and suddenly, whether claimed rightfully or claimed wrongfully, he saw he was claimed as a slave, and his condition burst upon him in a flood of terror. This was at night. You saw him, Sir, the next day, and you remember the state he was then in. You remember his stupified and terrified condition. You remember his hesitation, his timid glance about the room, even when looking in the mild face of justice. How little your kind words reassured him. Sir, the day after the arrest you felt obliged to put off his trial two days, because he was not in a condition to know or decide what he would do.

Now, you are called upon to decide his fate upon evidence of a few words, merely mumblings of assent or dissent, perhaps mere movings of the head, one way or the other, construed by Mr. Brent into assent or dissent, to questions put to him by Col. Suttle, put to him at the moment the terrors of his situation first broke upon him. That you have them correctly you rely on the recollections of one man, and that man testifying under incalculable bias. If he has misapprehended or misrepresented the prisoner in one respect he may in another. In one respect we know he has. He testifies that when Col. Suttle asked him if he wished to go back, he understood him to say he did. This we know is not true. The prisoner has denied it in every form. If he was willing to go back why did they not send to Coffin Pitts' shop and tell the prisoner that Col. Suttle was at the Revere House and would give him an opportunity to return. No, Sir, they lurked about the thievish corners of the streets, and measured his height and his scars to see if he answered to the record, and seized him by fraud and violence, six men of them, and hurried him into bonds and imprisonment. Some one hundred hired men, armed, keep him in this room, where once Story sat in judgment, now a slave pen. One hundred and fifty bayonets of the regulars, and fifteen hundred of the militia keep him without. If all that we see about us is necessary to keep a man who is willing to go back, pray, sir, what shall we see when they shall get hold of a man who is not willing to back?

I regret, extremely, that you did not, sir, adopt the rule that in the trial of an issue of freedom, the admissions of the alleged slave, made to the man who claims him, while in custody, during the trial, should not be received. That ruling would have been sustained by reason, and humanity, and precedent. Failing that, I hoped the facts of this case would show enough of intimidation to throw out the evidence. At least, they show enough to deprive it of all weight. I have reminded you of his condition the next morning. What must it have been there? One of his keepers, True, says he was that night a good deal intimidated. Who intimidated him? Do you recollect the significant words of Col Suttle, "I make *no compromises* with you! I make you no promises and no threats." This means it is according to the course you take now that you will be treated when I get you back. If you put me to no trouble and expense, it will be few stripes or no stripes. If you do, it will be many stripes." Was ever man more distinctly told it would be better for him if he acquiesced in everything, yielded everything, assented to everything? That is what those words, uttered in a tone, no doubt, that he well understood, conveyed to his mind. But I am wasting words. I know that your honor will give little or no weight to testimony so liable, at all times, to misconception, misrecollection, perversion and in this case so cruel to use against such a person under such circumstances.

We have great confidence, please your Honor, in our point that the record will be excluded on some one or more of these grounds, or that, if admitted, it may be controlled by the claimant's own testimony. In either event, we go cheerfully to our homes in the belief that the claimant is not entitled to the certificate. If the prisoner were the man he once owned, a mortgaged reversion, or a reversion unmortgaged, gives him no right to the certificate.

I should be glad to know how, under the evidence in this case, your Honor could set forth in the certificate, as the statute requires you to do, "the substantial facts as to the service due from such fugitive to the claimant." You would be obliged to say that at the time being he owed no service or labor to the claimant, but to one Millspaugh, and that you did not know when Millspaugh's right ended, and that when that ended, from all that appeared in this case, the entire right to the service and labor of the fugitive, for the rest of his life, had been transferred to one Towlson by way of mortgage. It would be one of the curiosities of this law to see Col. Suttle carrying Burns through this broad republic with such a certificate as that in his hand, but I should hope not to see your Honor's name upon it.

I should be glad to know how your Honor would set forth in the certificate, as you must, "the substantial facts as to his escape from the State or Territory in which such service or labor was due to the State or Territory in which he was arrested." You must say that it did not clearly appear that his departure was an escape from the person having the sole right to control him, and that the evidence was that he was brought away by an accident.

But if, as I have said before, you should, by any course of reasoning, be satisfied on all these objections, which seem to my mind so weighty, there lies behind all, and below all, the great doubt as to the identification of the prisoner. A mistake here is worse than an error of judgment on our points of law. That would send the right man back in an illegal manner. This would send a free man into slavery. I need make no apology, therefore, to your Honor, for my earnestness on this point.

There is an argument which perhaps may be made for the claimant, which it is my duty to forestall. It may be asked, if the prisoner is not Anthony Burns, of Richmond, Virginia, who is he? What is his past history? Where did he come from when Jones found him a stranger in the streets of Boston, on the first day of March, 1854?

In the first place, I might ask in reply, what is that to you? What is it to this Court? If he is not the man Mr. Brent saw in Richmond on the 20th of March, what concern is it of ours who else he be? If he is not the late slave of Millspaugh what concern is it of ours whose slave he is or has been, or fears he may be claimed to be? To escape this evil must he betray himself to the peril of perhaps a greater and more dreaded evil from which he may have fled for his life? Sufficient unto the day is the evil *thereof*.

But let me tell your Honor, (or rather let me suggest to your Honor's good sense and knowledge of human nature, whether it must not be so,) that the colored people in our northern cities are not free even among themselves, in exposing their names, their story, their plans for the future. A large portion are fugitives from slavery, or, if free themselves, have some wife, child or friend who through them, might be traced and seized. No, sir, the story of the colored man of this city is either his secret, which may be his ruin or his defence, which he does not mean to betray. Under this terrible law, no colored man is safe who cannot prove his freedom in ten minntes. Against the 10th section of that law he is not safe if he can.

If he is any man's slave, anywhere, if he has ever been any man's slave, anywhere, if he has lost his certificate of freedom, or has it not at a moment's call, if there is any doubt or difficulty hanging over his proof, secrecy is his only defence. Therefore, please your Honor, among the colored people there is a kind of free-masonry, a mutual understanding arising out of a common interest, that confidence is rarely to be asked or reposed. Two men may be working in one field, two women grinding at one mill, but neither knows or asks the story, the former name of the other. Confidence reposed or offered requires a return, and no man will offer his own story, at the risk of requiring the other to betray the fact that he has a secret to keep. They live under a reign of terror. I believe the evidence of Jones to be strictly true, that he did not know nor ask the story nor the name of this man, but that he passed by the first name he happened to call him.

This defence is not for each man alone. If he

has a wife, a daughter, a sister, who through him might be traced and seized, he would keep secret his own story, however safe himself,—aye, Sir, if he had a drop of the blood of a man in his viens he would rather that fifty Col. Suttles should sell him into fifty slaveries, than that the hand of a slave-fancier should touch the hem of her garment!

No, sir, I implore you, draw no hard inference from the fact that a colored man, a stranger in our streets, does not open to you, to the whole United States of America, as he would today, his story. Is it not enough if he defends himself against this claim? Must he expose himself and all he has dear to him on earth to the perils of every other?

On the constitutional objections, I shall say nothing. They have been fully and ably argued by my associate. I simply repeat them, to give them the little sanction I can, and because I desire that no man shall be put to slavery under this statute, without their being presented to the notice of the Commissioner. I take them in the words in which they were cast, at the hearing of the case of Sims, by a distinguished son of Massachusetts, whose early death was mourned by the friends of science, letters and freedom throughout the land, whose presence on the floor of Congress is needed this day—but who has been taken away that he might not see the evil to come—I read them from the volume of the Writings and Speeches of Robert Rantoul.

1. That the power which the commissioner is called upon in this procedure to exercise, is a judicial power, and one that, if otherwise lawful, can be exercised only by a judge of the United States court duly appointed, and that the commissioner is not such a judge.

2. That the procedure in a suit between the claimant and the captive, involves an alleged right of property on the one hand, and the right of personal liberty on the other, and that either party, therefore, is entitled to a trial by jury; and that the law which purports to authorize the delivery of the captive to the claimant, denying him the privilege of such trial, and which he here claims under judicial process, is unconstitutional and void.

3. That the transcript of testimony taken before the magistrates of a State court in Virginia, and of the judgment thereupon by such magistrates, is incompctent evidence, Congress having no power to confer upon State courts or magistrates judicial authority to determine conclusively, or otherwise, upon the effect of evidence to be used in a suit pending, or to be tried in another State, or before another tribunal.

4. That such evidence is also incompetent, as the captive was not represented at the taking thereof, and had no opportunity for cross-examination.

5. That the statute under which the process is instituted is unconstitutional and void, as not within the powers granted to Congress by the constitution, and because it is opposed to the express provisions thereof.

I do not know, sir, that I have more that, as a lawyer, I can say. There is enough more that might be said, but I do not know that I can say it. The most painful moments of a lawyer's course, are when he leaves a case of vital interest, which has been confided to him, or, still worse, as in this case, which he has assumed, with a doubt whether he has not done something that he had better not have done, or left undone what he ought to have done. I have endeavorcd to take part in this contest, solely as a lawyer. I have intended to cast no reflection upon those who are here in discharge of official duties. Their responsibility is to be measured by the degree of their obligation, and the option left to them. Those who have volunteered in this horrid trade, I have not intended to spare.

I have intended to give no personal offence to the claimant, and to cast no reflections upon the State and class to which he belongs. I am told he is a gentleman, who has inherited his slaves from his parents, and born in Virginia, under the slave system. He may be, and I trust he is, a humane man. I think no one has ever heard from me, at the bar, or on the platform, denunciations of slave-holders as such. Among them, I have many valued friends. I cannot but think it would be better if some of our public speakers and writers would husband their stock of invectives a little, and instead of safely denouncing people at a distance, who have been born to an inheritance which their fathers and mothers held before them, who have been born to its traditions, its prejudices, its opinions, would reserve them for the mean, the pusillanimous, the mercenary men of the North, who are the greatest sinners in this respect, and among whom our mission lies.

I have no hostility to Virginia. On the contrary, I have a deep feeling of interest in her past and future. I glory in the old blood of the Old Dominion, the "men of the red earth" of the three last generations. I wish we had more blood like it in New England at this moment. I hope Virginia has some of it still left. I look with painful foreboding at the dark future into which she is hurrying, and from which nothing but free institutions can save her. If you decide against the prisoner, the bitterness of his cup will not be that it is Col. Suttle who will become his master, it will not be that it is Virginia to which he is to go; it will be that you make him a slave, every man's slave who may buy him or hire him, in any slave State or country where he may take him, subject to all the contingencies of the death or insolvency of masters, the caprice or cruelties of overseers, and the dreadful possibility of all that slavery in its worst form may inflict.

You recognized, Sir, in the beginning, the presumption of freedom. Hold to it now, Sir, as to the sheet-anchor of your peace of mind as well as of his safety. If you commit a mistake in favor of the man, a pecuniary value, not great, is put at hazard. If against him, a free man is made a slave forever. If you have, on the evidence or on the law, the doubt of a reasoning and reasonable mind, an intelligent misgiving, then, Sir, I implore you, in view of the cruel character of this law, in view of the dreadful consequences of a mistake, send him not away, with that tormenting doubt on your mind, it may turn to a torturing certainty. The eyes of many millions are upon you, Sir. You are to do an act which will hold its place in the history of America, in the history of the progress of the human race. May your judgment be for liberty and not for slavery, for happiness and not for wretchedness,—for hope and not for despair, and may be the blessing of him that is ready to perish come upon you!

THE DAILY GLOBE.

PORTSMOUTH, VIRGINIA.

Cool Impudence.

The Rev. Theodore Parker and Wendall Phillips, held a meeting in Faneuil Hall and instigated by their ravings the late riot in Boston, at which Batchelder, the Marshal's officer, was killed. The friends of the murdered man became so justly indignant that they threatened to mob the residences of Parker and Phillips, when these two worthies applied to the authorities to *protect them*. They had the audacity to ask protection from the laws which they had violated: as if they had cut the sinews of Jove and then called on Jove for help. Such cowardice and impudence combined have been rarely excelled. They were very brave in bidding defiance to the law, and in leading on the van to break it and set it at naught; but, as soon as ever there are found honesty and courage enough among the citizens to react and turn the consequences of their deliberate but fiendish treason upon themselves, they cry aloud for that very law they had dared, and in a moment of rabid triumph, stabbed, to succor and protect them. The genius of the law had lain bleeding at their feet; but when by those divine helps which Heaven sends, the flux of blood was staunched and the wound closed, and the law was ready to vindicate itself through

the volunteers who drew up under its sovereignty, cowering and trembling, they have the cowards' impudence, the villians' confidence to ask for forbearance and forgiveness from the very throne and its presiding deity they had wished and striven to destroy. It is the "coolest impudence," or the most abject fear from coward hearts we ever heard or read of.

The Abolition Riot in Boston.

We had on Saturday an account of a riot in Boston, got up by a meeting of Freesoil abolition factionists, which was held on Friday in Faneuil Hall—(what a shame to disgrace such a place by allowing such lawless factionists to meet in it!) The pretence for the meeting and the riot was the arrest of a fugitive slave from Alexandria, whose case was then being examined by the legal authorities. The Boston Atlas, in a notice of the meeting in Faneuil Hall, says:

George R Russell, Esq., of West Roxbury, presided, and speeches were made by the Chairman, Wendall Phillips, Theodore Parker and John L Swift. A series of resolutions was adopted, and the meeting resolved that Burns should not be taken back to slavery. The meeting was the most exciting we remember to have attended.

Before all the ends of the meeting were accomplished, it was stated by a person in the gallery that a mob of negroes had assembled in Court Square, which caused a stampede among the audience, and in company with a large number of the persons present we left for the scene of the anticipated disturbance. On our arrival at the Square, we found no mob there, but one was soon created by those who left the meeting.

The Boston Courier gives the following particulars of the riot:

There was a general rush in the direction of Court square, and upon our arrival there, the mob had began to storm the doors of the Court House. Those on the east side were first attacked, but without avail. The rioters then went to the west side, threw stones through windows, and attempted to batter down one of the doors with a heavy beam. Failing in this, two men came forward with axes and deliberately cut a hole through the lower part of the door, and subsequently forced it open. A number of persons rushed in, but they were repulsed by the Marshal and his aids.

During this struggle some thirty shots were fired by the rioters, and Mr James Batchelder, a special officer, who was resisting the entrance of assailants, at the shattered door, was shot dead. The weapon discharged at him must have been a blunderbuss, as its contents embraced many bullets, some of them of a very large size. His bowels were literally town out, and he died almost instantly. He was a truckman in the employ of Mr Peter Dunbar, and leaves a wife and one child.

The Marshal's officers did not use their arms, and succeeded finally in expelling the rioters from the doors with their clubs only. During this scene, the Judges of the Supreme Court, the Attorney General of the Commonwealth and the Sheriff of Suffolk were in the building, awaiting the return of the jury in the Wilson case, who were to come in at 11 o'clock. Some members of the jury, who put their heads out of the window to see what was going on, were fired at and the balls, in one or two instances, struck quite near them. The windows of the Justice's court room were completely riddled by bullets discharged from without.

Marshal Freeman had a very narrow escape, a ball having struck the wall quite near him, while he was leading his men up to repulse the individuals who had broken in. His little son, who was present, ran into the crowd, crying 'Father, you will be shot,' and the lad was quite close to Batchelder when he fell.

During these outrages upon the Court House, the Chief of Police summoned his men to protect the peace in the square.—Nine persons were arrested. Their names are John "J" Roberts (probably John G Roberts). Albert G Brown, W Finney, J Westley, W Bishop, Thomas Jackson, H Howe, Martin Stowell, and J Thompsohn. Roberts is charged with breaking the lamp in front of the door. The other individuals were arrested on a general charge of disturbing the peace. Brown is a young man about 22 years old, and his friends offered bail for his appearance in the morning, but the Chief of Police committed him with the other prisoners.

The Mayor was notified by his Chief of Police of the state of affairs, and he at once issued an order on Col. Cowdin for two companies of artillery. At 12 o'clock, the Boston Artillery, Captain Evans, and the Columbian Artillery, Captain Cass, came to the aid of the civil authorities. Their presence seemed to restore quiet, and Court Square was soon deserted by the rioters.—Captain Evans' command was stationed in the City Hall for the night, and Captain Cass's company took quarters in the Court House. At 12½ o'clock the square was deserted.

It is quite likely that the mob will reassemble this morning. If they do, and attempt to rescue Burns, the attempt will be awful. The Marshal is determined to execute the law, cost what it may. We give this information lest certain persons should be deceived by the lying statements of these Abolitionists who last night, in Faneuil Aall, counseiled violence, and stated that the Mayor and Police would not protect the public peace.

At 2 o'clock this morning, a detachment of marines arrived from the Navy Yard. They will be stationed in the Court House this morning to preserve order during the examination of Burns, and should he be remanded back to slavery, the Marines will see to it that if a rescue is attempted there will be blows to give as well as blows to take. Let the noisy praters of Faneuil Hall, the Rev. Theodore Parker and his pious followers, 'govern themselves accordingly.'

Second Edition.

SUNDAY MORNING, MAY 28.

A Historic Week.

The Fugitive Slave Case.---Commissioner Loring's Decision.

The events of the week which has just passed away, will take a prominent place in the history of New England—but whether for our fame as a Christian people, or our shame as a community, ready to lend all our moral and physical force to do the dirtiest work a civilized man ever engaged in, time and the results upon the mind of New England will show.

One thing cannot be denied,—Boston, enlightened. Christian, patriotic Boston, as we have loved to be called, has bowed the knee and bit the dust of humiliation at the bidding of a man from Virginia whom nobody knows, but who may be, and probably is, judging from his acts, one of the worst of men. A slave catcher is held accursed at the South, as a leper is in Oriental countries. Yet, because one of this accursed race has chosen to make Boston his hunting ground, U. S. slave Commissioners, subservient District Attornies, and convenient tools have united with him to outrage every feeling of liberty in the community, to insult our citizens, trample upon our principles, garrison our Court House and keep the community in a state of agitation and alarm for more than a week.

Say not that this has been done for the supremacy of law and the preservance of order. It has been a lie and an outrage from the beginning. Col. Suttle, if he be a colonel, and if Suttle be his name, which have not been proved, began with a fraud, and fraudulently has he continued through the whole transaction. Aided by a man, who, judged by his looks alone, would be condemned as a miscreant, he caused the man Burns to be arrested on a false charge of robbing a Jeweller's shop; caused him to be kept in solitary confinement, to be visited only by himself or scoundrels who would use what was extorted from him by threats and terror, as weapons against him. He brought the U. S. officers into complete subserviency to him; took control of the Court House; cheated the friends of law and order by false statements, who, to preserve both intact, were willing to pay the mercenary hound $1,200 for his claim, and finally triumphed at the expense of New England honor, the blood of a man and the destruction of the first principles of the Declaration of American Independence, carrying off his human property with much the same feeling and appearance as a sheep-stealer would carry off his booty amid the restrained indignation of an outraged people.

The law has not been vindicated. Every principle of law has been set aside. The fundamental principle of the Constitution has been violated and justice and humanity have been trampled under foot. Brent, who, as has been said, "for all we know has hardly aired himself from the fever of a Virginia penitentiary," has testified under the strongest bias, and in the most reckless and offensive manner, that Anthony Burns was a slave of Col. Suttle; that he ran away on the 20th of March, and that Burns confessed these facts to him after his arrest. Against this we have the evidence of several citizens of Boston, who are well known, whose characters are beyond reproach, whose evidence was unimpeached and unimpeachable, that the man Burns was in South Boston the first part of March, and could not, therefore, have been in Richmond as pretended by Suttle and his tool.

Now as to the law in the case. We have always been taught that a person charged with crime is presumed to be innocent until he is proved guilty; the Commissioner said he held Burns to be a free man until he should be proved to be a slave. We have always been taught that in case of doubt all presumptions of law are to be construed in favor of a prisoner; and that evidence extorted from a prisoner by terror or threats was not to be used against him; that in case of conflict of testimony, it is always safe to rely upon that which is most reasonable if it preponderates in favor of the accused. When evidence vacillates, the vacillation is to be in favor of the prisoner. This is in accordance with the instincts of justice and right, which every man feels in his own bosom, with the plainest principles of reason and with the well established, long regarded and venerated principles of the common law, which, in all our courts rises above statute law to give a man who is placed in peril an additional door of escape. The Fugitive Slave Law sets at defiance every principle of truth and justice; it overrides declarations, Constitutions, State laws,—trial by jury—every thing which good men hold most dear.

Commissioner Loring has, it seems to us, committed the greatest treason ever perpetrated against the liberties of the citizen. He has not decided according to evidence. The evidence is against his decision. He has used what a man, whom nobody knows, says that Burns said. He has taken this, the most doubtful of all doubtful evidence, as the basis of his decision. All his presumptions are in favor of slavery; all his doubts are against liberty. His judicial mind receives as gospel all that the man Brent testified as to his conversations with Burns, and rejects as apocryphal all that the most credible, respectable and unimpeachable of his own fellow citizens testify to. If the Commissioner can bear his conscience easy after this, he must have a marble heart.

We beg to remind him that in two other great epochs of the human race, when a better manifestation of the spirit of liberty was struggling for utterance, there have been found men, who were willing to crucify that liberty and consign themselves to eternal infamy for gain. Judas Iscariot betrayed Jesus for thirty pieces of silver and went out and hanged himself. Benedict Arnold would have betrayed the liberties and destiny of

this country, and died abroad in infamy, an object of unutterable loathing, the scorn and contempt of the world. Edward G. Loring might have taken warning by their example. Let him contemplate their fate.

But amid so much for depression and shame-facedness, there is one bright spot to which we can turn in this sad history, and that is the certain reliance we can place in Volunteer Militia. Whenever called upon by the regularly constituted authorties, to discharge a duty, they are always to be found, ready at their post. We owe it to the presence of the Boston Brigade, that the peace has been so well preserved and that our streets have not flowed with blood.

THE SLAVE EXTRADITION.—We learn that John H. Pearson, Esq., the lessee of Long Wharf, refused to allow that wharf to be used for the removal of the slave. The wharfinger of T wharf, who let those premises for the business without consulting the proprietors was promptly discharged last evening, but was this morning "provided with a place in the Custom House."

A great change has come over the whole community, Whigs and Democrats now say that Garrison is not now far in advance of public sentiment.

ning. Public opinion has changed wonderfully since the arrest of Burns, and the transformation of the Court House into a *Slave catcher's den.* It is now said everywhere, that Burns is the last of his race that can be arrested and held in Boston, while fleeing from Slavery, and no more United States troops will be quartered in a time of peace to overawe our judges in a Suffolk County Court House.

THURSDAY.

The Court House and the slave were securely guarded, and the assemblage of people in the vicinity much less than on previous days.

FRIDAY.

This morning all the avenues leading to the court room were guarded, seemingly, with redoubled vigilance, and every person who offered himself to enter was scrutinized very closely. None but those belonging to the Marshal's guard, reporters, a few members of the bar, friends of Col. Suttle, and a few other privileged characters, were permitted to enter.

The outward appearance of the prisoner has undergone a marked change. The officers in charge have, since the adjournment of the Court on Wednesday, contributed among themselves an entire new suit from top to toe for him.

The Commissioner came in at 9 o'clock precisely, looking haggard and care-worn, and evidently pressed down by a deep sense of the heavy responsibility weighing upon him.

COLLECTOR PEASLEE CRUSHED OUT!—An exceedingly entertaining anecdote is bruited about town just now, in which Collector Peaslee, of this port, is one of the principal figures. It is well known that the above named gentleman resides at Woburn. A short time since the Rev. Mr. Bennett was expected to preach a sermon in that place against the last scarlet sin of the government—the passage of the Nebraska bill. Mr. Bennett entered the pulpit on the Sabbath morning, prepared to deliver a sermon on another topic. Before commencing, his attention was attracted by the singular posture of a person who sat directly in front of him, with an extremely surly, sulky, contemptuous, turn-up-nose sort of a face nearly out of profile—the back of the head, and the hunch of an averted shoulder which supported it, being turned to the pulpit. This was collector Peaslee carefully arranged into an attitude meant to be symbolical of the moral "crushing out" any minister might expect from him who had the temerity to trample upon the black flower which the Administration has succeeded in transplanting to the soil of Nebraska!

Mr. Bennett's sermon, however, soon acted like magic on the Collector. The rebellious attitude gradually melted into decency and decorum. But he still remembered that the anti-Nebraska sermon was only dormant on the lips of the minister, and on the conclusion of the service, chose to show his patriotic indignation by declaring among the parishioners, that he would thenceforth attend the Baptist church in that place, whereof the Rev. Mr. Edwards is pastor. It happened that Mr. Edwards had made an arrangement to exchange pulpits with Mr. Bennett that Sunday afternoon, so that the very-much-to-be-regretted Peaslee, on taking his seat in the former gentleman's church, was petrified by the re-appearance of the obnoxious Mr. Bennett, and in a state of mental turbulence more easy to be imagined than described, listened to a sermon, it is said, from the text—"The wicked flee when no man pursueth."

—At a meeting of the Methodist clergymen of Boston and vicinity, on Monday, resolutions were adopted thanking R. H. Dana, Jr., Esq., and C. M. Ellis, Esq., for their defence of Anthony Burns; also thanking the Hon. Charles Sumner for his protest against the Nebraska bill, and his able and eloquent defence of the clergy of New England. A committee of five was also appointed to co-operate with the committee of ministers appointed at the conference of clergymen, held at the Tremont Temple last Thursday, to consider the encroachments of the slave power.

The Feeling Elsewhere.

PAWTUCKET, June 2. The news of the surrender of Burns has just reached here, creating a profound sensation. The bells are tolling here and in the adjacent towns.

Cradle of Liberty

Mr. Attorney Hallett's Interference with the Purchase of the Fugitive.

We published on Saturday Mr. Hallett's contradiction of the report that he interfered to prevent the purchase of the fugitive Burns. To-day we have Mr. Willis's statement of the whole affair, so far as he was concerned in negotiations for the purchase. The statement is sufficiently plain and explicit to enable every man to judge of the facts.

BOSTON, Saturday, June 3, 1854.

To the Editors of the Atlas:—You have called my attention to an article in your paper of this morning, signed L., and to a contradiction of its statement in the Journal of this evening, by authority of the United States District Attorney. I know nothing of the origin of either of these articles, but will, at your request, give you a narrative of my own connection with the recent negotiation for the freedom of "Byrnes," believing that such a narrative will be altogether pertinent to the fact which you seek to establish, namely, the interference of the United States District Attorney in the negotiation above referred to.

On Saturday afternoon last, the Rev. Mr. Grimes called upon me and said that the owner of Byrnes had offered to sell him for $1200, and that he (Mr. Grimes) was anxious to raise the money at once. He desired my advice and assistance in the matter, and requested me to draw up a suitable subscription paper for that purpose, which I did in these words:

"Boston, May 27, 1854.

"We, the undersigned, agree to pay to Anthony Byrnes, or order, the sum set against our respective names, for the purpose of enabling him to obtain his freedom from the United States Government, in the hands of whose officers he is now held as a slave.

This paper will be presented by the Rev. L. A. Grimes, pastor of the 12th Baptist Church."

Upon this paper Mr. Grimes obtained signatures for $665, and with the aid of Col. Suttle's counsel, Messrs. Parker and Thomas, who interested themselves in this matter, $400 more was got in a check, conditionally, and held by Mr. Parker. It was agreed by me that I should be near at hand on Saturday night, to assist and advance the money, which was accordingly done, and my check for $800, early in the night was placed in the hands of the United States Marshal for this purpose. About eleven o'clock, all parties being represented, we met at Mr. Commissioner Loring's office. This gentleman, with commendable alacrity, prepared necessary papers.

At this juncture the actual money was insisted on, which threatened for a time the completion of the negotiation; but anticipating this contingency, which, under all circumstances, was not an unreasonable demand, we adjourned to the Marshal's office, and I prepared myself with the needful tender. The United States Attorney, Mr. Hallet, was in attendance, and the respective parties immediately discussed the mode of precedure. The hour of 12 was rapidly approaching, after which no action could be taken. Mr. Grimes was prepared to receive Byrnes, and anxious to take him as he might peacefully. The matter lingered, and official action ceased.

I am not disposed to charge any one with designedly defeating the desired end on that occasion. The business was new, the questions raised novel. But when we had proceeded thus far, and were ready in good faith to make good the sum requisite on Monday, in view also of the friendly understanding had after midnight with all parties in interest, we had a right to expect Byrnes' liberation on Monday. When that day came, the owner refused to treat. Learning from rumor only, that $4000 had been named as the sum then asked for, I on Monday addressed Col. Suttle, then in Court, a respectful note, reminding him of the position of things on Saturday night, and urging that Mr. Grimes had the right to expect the original agreement to be carried out, but further asking him, if any additional sum was required, to which he replied, that the "case is before the court, and must await its decision."

Tuesday morning I had an interview with Col. Suttle in the U. S. Marshal's office. He seemed disposed to listen to me, and met the subject in a manly way. He said he wished to take the boy back, after which he would sell him. He wanted to see the result of the trial, at any rate. I stated to him that we considered his claim to Byrnes clear enough, and that he would be delivered over to him, urging particularly upon him that the boy's liberation was not sought for except with his free consent, and his claim being fully satisfied. I urged upon him no consideration of the fear of a rescue, or possible unfavorable result of the trial to him. but offered distinctly, if he chose, to have the trial proceed, and whatever might be the result, still to satisfy his claim.

I stated to him that the negotiation was not sustained by any society or association whatsoever, but that it was done by some of our most respectable citizens, who were desirous, not to obstruct the operation of the law, but in a peaceable and honorable manner sought an adjustment of this unpleasant case; assuring him that this feeling was general among the people. I read to him a letter, addressed to me by a highly esteemed citizen, urging me to renew my efforts to accomplish this, and placing at my disposal any amount of money that I might think proper for the purpose.

Col. Suttle replied that he appreciated our motives, and that he felt disposed to meet us. He then stated what he would do. I accepted his proposal at once; it was not entirely satisfactory to me, but yet, in view of his position, as he declared to me, I was content.—At my request he was about to commit our agreement to writing, when Mr. B. F. Hallett entered the office, and they two engaged in conversation apart from me. Presently Col. Suttle returned to me and said—"I must withdraw what I have done with you." We both immediately approached Mr. Hallett, who said, pointing to the spot where Mr. Batchelder fell, in sight of which we stood—"That blood must be avenged." I made some pertinent reply, rebuking so extraordinary a speech, and left the room.

On Friday, soon after the decision had been rendered, finding Col. Suttle had gone on board the Cutter at an early hour, I waited upon his counsel, Messrs. Thomas and Parker, at the Court House, and there renewed my proposition. Both these gentlemen promptly interested themselves in my purpose, which was to tender the claimant full satisfaction, and receive the surrender of Byrnes from him, either there, in State street, or on board the Cutter, at his own option. It was arranged between us that Mr. Parker should go at once on board the Cutter, and make an arrangement if possible with the Col.

I provided ample funds and returned immediately to the Court House, when I found that there would be difficulty in getting on board the Cutter. Application was made by me to the Marshal, he interposed no objection, and I offered to place Mr. Parker alongside the vessel. Presently Mr. Parker took me aside and said these words: "Col. Suttle has pledged himself to Mr, Hallett that he will not sell his boy until he gets him home." Thus the matter ended.

In considering, Mr. Editor, whose interference was potent in thus defeating the courteous endeavors of citizens of Boston, peacefully and with due respect to the laws of the land, to put to rest the painful scenes of the past week, it must be borne in mind that the United States Marshal, who, throughout this unfortunate negotiation, has conducted himself towards us with great consideration, consented, individually, to hold the funds, as a party not in interest, thus early acquiescing in the success of our plan; the owner himself was willing to release his claim; his counsel, Messrs. Thomas and Parker, volunteered their aid in raising the money, urged it, and interested themselves in its speedy accomplishment—even in the latest moment when it could be effected, with commendable alacrity, they offered their assistance; the United States Commissioner himself consented to be at his post until midnight of Saturday, to give his official service for the object—I repeat, in view of all these considerations, the conclusion must come home irresistibly to every candid mind, that there was one personage, who, officially or individually, in this connection, either did do, or left undone, something whereby his interference became essential to a less painful termination of this case. Respectfully,

HAMILTON WILLIS.

Daily Evening Traveller.

BOSTON:
MONDAY, JUNE 5, 1854.

PETITIONS FOR THE REPEAL OF THE FUGITIVE SLAVE LAW.—It has been suggested to us by more than one of our substantial and conservative citizens, that all the surrounding cities and towns of our Commonwealth be requested to get up petitions for the repeal of the Fugitive Slave Law of 1850.

This suggestion, we have no doubt, will meet with a ready response from every section of the State; and we would suggest that the example be followed by all the cities and towns of New England, and of the non-slave holding States. Let the floors of Congress be covered with the petitions of the friends of human liberty, for the repeal of a law which does violence to the best feelings of our nature, which is at variance with the moral and religious convictions of the entire population of the free states; and which has been heretofore endured only from the mistaken idea that by means of it peace might be purchased between the North and South.

OFFICIAL CORRESPONDENCE.—The Washington Union of Saturday publishes the correspondence between the President and Mr. Hallett, the U. S. Attorney in this city, in reference to the slave case. The Union takes occasion, in introducing this correspondence, to give President Pierce a first rate notice, as follows: "In the person of Franklin Pierce, the country has an Executive who will not shrink in fulfilling all his obligations to the constitution, no matter where the emergency exists, whether on the northern shores of the Atlantic or on the borders of the Mississippi in the far Southwest." The Union, indeed, never loses an opportunity, not to commend, but to puff the President—forgetting that "good wine needs no bush." The Union says further: "We cannot permit the occasion to pass without thanking the United States officers at Boston for their firm, moderate, and intrepid conduct. We expected as much from a democrat so well tried in contests for State-rights as that eloquent and profound jurist Benjamin F. Hallet; and we only re-echo a general public sentiment when we repeat, that we have already endorsed, our high admiration of the fidelity and courage of Marshall Freeman, who, like Mr. Hallet, was appointed to office by President Pierce."

The following is the correspondence:

On Tuesday last the following despatch was sent to Boston by direction of the President:—

WASHINGTON, May 30, 1854.

To HON. B. F. HALLETT, Boston, Mass.

What is the state of the case of Burns?

SIDNEY WEBSTER.

BOSTON, May 30, 1854.

To SIDNEY WEBSTER.

The case is progressing, and not likely to close till Thursday. Then armed resistance is indicated. But two city companies on duty. The Marshal has all the armed posse he can muster. More will be needed to execute the extradition if ordered. Can the necessary expenses of the city military be paid, if called out by the Mayor at the Marshal's request? This alone will prevent a case arising under second section of act of 1795, when it will be too late to act.

B. F. HALLETT.

WASHINGTON, May 31, 1854.

To B. F. HALLETT, U. S. Attorney, Boston, Mass.

Incur any expense deemed necessary by the Marshal and yourself for city military, or otherwise, to insure the execution of the law.

FRANKLIN PIERCE.

On the same day, the President ordered Colonel Cooper, Adjutant General of the Army, to repair to Boston, empowered to order to the assistance of the U. S. Marshal, as part of the *posse comitatus*, in case the Marshal deemed it necessary, the two companies of the U. S. troops stationed at New York, and which had been under arms for the forty-eight preceding hours, ready to proceed at any moment.

BOSTON, May 31, 1854.

To SIDNEY WEBSTER.

Despatch received. The Mayor will preserve the peace with all the military and police of the city. The force will be sufficient. Decision will be made day after to-morrow of the case. Court adjourned.

B. F. HALLETT.

Yesterday morning the following despatch was received:

BOSTON, June 2, 1854.

To SIDNEY WEBSTER.

The commissioner has granted the certificate. Fugitive will be removed to-day. Ample military and police force to effect it peacefully. All quiet. Law reigns. Col. Cooper's arrived opportune.

B. F. HALLETT.

THE DAILY MAIL.

MONDAY, JUNE 5, 1854.

Fillibusters in the Pulpit.

The Sabbath is of moral and physical necessity to man. Without the institution of this day, life would be a monotonous, miserable sort of existence. The Sabbath was made for man. His very nature and constitution require it. It contributes to his comfort, happiness, longevity, physical and moral preservation, support and development. It is a periodical bar in the labor of life, which strengthens and lengthens the web of existence. Perpetual labor would enervate and exhaust the vitality and power of the nervous and muscular system. The bodily organs, fatigued and overexercised, the mind becomes weak and inert, the spirit depressed and melancholy. The rest and cessation from the ordinary pursuits of life, promoted by this day, was doubtless designed, especially that the mind might be released from one pursuit, one idea, or a single train of thought. Did we not require physical respite, the avaricious might toil on in sacrifice of mental culture and social pleasure, and in defiance of moral and intellectual happiness, to the impovishment and dwarfage of the soul. True, there is no behest, divine or human, against the labor of the mind, or the working of the the spirit. Many minds are called *dreamy*, but, according to the best advised human philosophy, they never sleep—not even with the senses. Thought is ever active. The sleep of the soul would be its annihilation or death. Like the elements of nature and the movements of the universe, the mind knows no repose. As well might the wind and waves be stayed, or the storm and the revolution of the stars chained, as thought fettered or subdued. So as this theory is conclusive, we should regard the institution of the Sabbath as an occasion to guide and direct us on a day's journey in moral improvement. Those who preside over our churches, instead of stooping to bandy hacknied political topics, and stirring up the burning embers of fanaticism, intolerant, proscriptive and reckless, should direct their energies to soothing animosities, and to counsel Christian virtue and forbearance. Through the gentle influence of an amiable eloquence, they should endeavor to instruct and elevate rather than denounce their neighbors, debase the understanding and poison the passions.

Yesterday, in most of the pulpits of this city, the late riotous proceedings, in reference to the arrest of a fugitive from labor, belonging to a sister State, and which carried murder and debauchery and rank crimination in their train, was the principal subject of discourse. We have little doubt that the negro, Burns, was unceremoniously dragged into about every Christian sanctuary in New England. The law of the land was denounced and ridiculed. The authorities who subserved order and sustained that law, were impeached and vilified. The military who saved the city from anarchy and bloodshed were rebuked and libelled, for the performance of a simple duty to a government of the people's choice.

Whatever the opinion of others may be, we think such inflamatory harangues in exceeding bad taste. True religion is not vindictive in its character; and when the priesthood so far transcend propriety as to doff their sacerdotal robes and plunge unwittingly, into the arena of political turmoil, it is time for the people to think where the frenzy of a false philanthropy may lead them. We say false—because that philanthropy which would peril the peace, of a community, sacrifice the lives of brothers, outrage a statute law of the nation, to invest one inferior man with mere nominal liberty—is false, ~~wicked~~ and cowardly. We thank God that the laws are not yet enacted or dispensed through priestcraft, and as that profession would regard its own rights and immunities, let it learn to respect the enactments of the whole people's sanction. There is a deep and abiding religion of the heart, imbued with justice as well as mercy, and which, while tolerating all sects, revolts, at this ever-sought-for alliance between church and State.

We abhor the institution of slavery—we have witnessed its withering and blighting effects upon the energies of the very Eden of our land. We look upon it as a relic of barbarism—a barrier to progress—and a dark blot upon the fair fame of our country. Massachusetts has just cause of pride, and should have ease of conscience, that she is clear of the incumbus. By her example let her win her sisters to the same policy—not by fraud, force or fanaticism. And of all things, let respect for herself, if not for the rights of others, preserve the glorious heritage of the Union—even if the fair fabric have a flaw in it. We should be extravagant to expect pefection in human government.

We know that men who confine themselves to gospel pursuits are apt to be too etherial for mere practical realities. They expect too much of heaven here, not to be disappointed. According to the best authenticated bible history, the oldest inhabitants failed to set up a paradise in the east, and so it has been ever since among their successors, and ever will be. Therefore, while we enjoy the best system of government known among men, to inspire respect for it and hope for the future, is the true policy of republican religion. It should be remembered that the minister who would descend to pat one political measure encouragingly on the shoulder, would hardly hesitate to take another by the throat.

The sermons of Theodore Parker and Thos. Starr King were painfully fanatical and supremely absurd. Parker, we look upon as an intellectual assassin. He would stab anybody in the dark—with his tongue—but would fly like a fleet race horse, if threatened with danger to his person. He once said that the whole Yankee race was a race of cowards—judging no doubt by his own cowardly instincts. But for Thomas Starr King's effort, we were certainly less prepared. His similes appeared even more odious than his puns—one of which, was *"lit up by* SUTTLETY, the *iniquity of the kidnappers."* Relating the history of the arrest, trial, conviction and execution of the Savior, he compared the case to that of Burns. If a compliment was intended, the negro certainly had the best of it. Among the thinking portion of his auditory a shudder pervaded, at such a stretch of the imagination, but it served to tickle fanaticism, because it was all on one side. The simile seemed humiliating to every white man who was not a negro—for they felt there was more vital magnetism in the body of Jesus than would serve to propel the whole African race on both continents. He deplored not the resistance to the law—the murder by the mob, and the perjury of his friends. These were crimes lost sight of, while his sympathies overruled his judgment.

When will the clergy return to their legitimate calling, and leave secular affairs in the hands of the people and their representatives? When will they confine themselves to teaching men how to die, instead of how to live? Such deliberate aggressions on the part of the pulpit are fraught with consequences to our institutions requiring the most deep and earnest reflection. If our government is to be perpetuated, it must be by the exercise of forbearance and reciprocity; and to the same God who inspired the spirit that dictated the Constitution, we trust to defend that glorious instrument from desecration, and spare us the horors of an inquisition.

THEODORE PARKER'S DISCOURSE ON THE FUGITIVE SLAVE AFFAIR. Music Hall was filled yesterday morning to its utmost capacity. More than a thousand people went away, unable to obtain admission. The discourse was a very able one but somewhat rabid.

ATTEMPT TO PURCHASE BURNS. Several negociations to purchase Burns were preferred on Friday, after the decision of the Commissioner, but they were not listened to. It is said that Col. Suttle, on leaving the city in the morning, left the most peremptory orders "to trade" at no price—even if $100,000 were offered.

DEPARTURE OF FUGITIVES. Previous to the arrest of Burns, there was a large number of fugitives in this city. Many of them have since left for places of more safety than Boston has proved to have been. Among those who left left thus suddenly, were two who had purchased furniture, and were about to be married.

INSTABILITY OF MAN'S SYMPATHY.—During the past two days, the Circuit Court of the United States has been occupied with the trial of Joseph Mingo—a St. Domingo negro—on a charge of murdering William Johnson on board the ship John Dunlap. The Court is held in the room which was last week occupied by Judge Loring, in the hearing of the Burns case; and although the present issue involves life or death, the fate of the unfortunate prisoner has awakened little or no attention. The court with that humanity which is the characteristic of the law, assigned able counsel to defend the prisoner; but there has been no visit of "friends"—no profers to minister to his spiritual condition. Of all the robbed interpreters of divine law, who last week cried aloud and still sigh for Burns, not one has volunteered to illumine this poor black mind—not one to urge upon the prisoner the reality of his position. There he sits—none to befriend or advise him but the officers of justice—and there he will continue to sit neglected and alone. The colored parson, Grimes, was in the Court room for a moment yesterday; but his business did not relate to Mingo, and he scarcely turned his eyes in the direction of the culprit. Such is the transitory character of professional philanthrophy, and such it has ever been. It is well for Mingo and the afflicted and oppressed of his race, that he and they have A FRIEND whose sympathy is neither emmotional, transitory nor counterfeit, but, though invisible, is real, comforting and sanctifying. [Boston Courier.

From the Evening Edition of Saturday.

THE BOSTON PRESS TO-DAY.—The *Atlas* has an excellent editorial on the late outrage. It speaks of the military parade in these terms:—

"That our citizen soldiery should have been required, by the command of the Mayor of this city, to act as body guard to the officers of the Marshal's cortege—that through all the business hours of the day they should have been required to take forcible possession of business streets, excluding our citizens from their rights and privileges, calls for the deepest indignation. It was as gratuitous and unnecessary as it was unjust to the military, to place them, needlessly, upon a duty so repugnant to the best feelings of manhood, and insulting and tyrannous to our fellow citizens."

In regard to Loring's decision, it is equally decided in its disapprobation, saying that if Burns had been on trial for an offence against law, the jury would not have left their seats before they pronounced a verdict of not proven. The Atlas, in conclusion, speaks of the entire revulsion of feeling in the community, against the Fugitive Slave Bill.

We quote the following advertisement, from which it appears that Mr. Ketch is emulous of the fame acquired by the Sims Commissioner

"We are requested to state that the report (that nobody ever heard) that Jack Ketch, Esq, has declined to act in cases arising under the law for the hanging of murderers, &c. is without foundation.

He has not resigned his office of hangman, and will shrink from the performance of no duty, which is required of him by the laws of the land, which he has sworn to support.

Mr. Ketch may be found at his old office."

The *Post* is surcharged with vile pro-slavery matter, paid for by the United States Government. We copy from it the following pronunciamento from one of our masters:—

To the Editors of the Boston Post:

Gentlemen,—At the request of my friends, Col Suttle and Mr. Brent, of Virginia, whose names have for several days past occupied so much of the public mind, I write you this. The exciting trial is now over; the United States Commissioner, after much research and deliberation, has given his decision, and the fugitive, Anthony Burns, is on his way back to Virginia. No man in Boston can fairly say he did not have an impartial trial, and that he was not ably defended by counsel learned in the law, and full of zeal for their client; and that so far as sympathy could go that it was not all on his side. In the name of my Virginia friends, I have to thank the citizens of Boston for the firm and patriotic manner in which they have acted during the whole course of this exciting trial. To the United States Marshal, to the civil and military authorities, to the United States District Attorney, to his counsel, and to the citizens who took an interest in executing the laws of the land, in the name of Virginia and the South. Col. Suttle returns his warmest thanks.

The South will never forget this act of justice; and when I shall return to my own State, I can say to Louisianians that Boston is a law-abiding city, and that I have seen the rights of Southern men respected and firmly maintained—that the order loving citizens of Boston, in the broad noon of day, executed the constitutional law of the land. The North and the South are connected by every tie of blood, of friendship, and of interest, and cursed be the hand that shall ever break them apart. Boston is a great city, in many respects the first in the Union; it is the seat of learning and of science; she has sent out to the South and West many a noble son, and her daughters are now the mothers of Southern children. Shall a few misguided men make odious the whole of this great city? No, never.

To the disconsolate widow of Mr. Batchelder—he who fell in defence of the laws of his country—I have to say that the city of Alexandria will take care of her. To the kind-hearted and philanthropic ladies and gentlemen who actually subscribed, and were anxious to purchase the freedom of Anthony Burns, I am authorized to say, that after his return to Virginia they can fulfil their benevolent wishes. To the gentlemen of the Boston press who have sustained the law, the whole country is indebted.

Yours, very respectfully,
H. W. ALLEN, of Louisiana.

Revere House, Boston, June 2, 1854.

The *Chronicle* has the following remark concerning the conduct of a portion of the military. The censure is deserved, no doubt. It is not designed, and should not be, indiscriminate. Many of the troops behaved as well as they could, considering the hateful service they were performing:—

"The conduct of a portion of the military is open to severe censure; it was indecorous, unsoldierlike, unmanly, and in some cases even brutal. Some of the companies, we are happy to state, conducted in the most praiseworthy manner, but the conduct of others will tend, and in no small degree, to bring odium on the volunteer militia, and unless they look well to their acts hereafter, they will fall in the public estimation as rapidly as they have risen within a few years past. When a respectable citizen respectfully asks a commander of a corps by what authority he orders citizens out of the streets, and is answered, 'None of your business, G—d d—n you;' when a company amuse themselves while on duty by singing 'carry me back to Old Virginia,' thus manifesting the utmost indifference to the feelings of many of the citizens; when a company participates in Bachanalian pleasures in State street; when an officer evinces such deplorable ignorance of his duties as to order a shopkeeper to close his store because he sees fit to drape it in mourning;—when such scenes are perpetrated in Boston, we shall not remain silent nor cease to express our unqualified censure of such disreputable conduct."

The *Bee* has an article maintaining the excellent stand it has taken during the week. The *Mail* is equally persistent in its violent pro-slavery course. It exultingly proclaims that "Burns, the fugitive slave, has been carried back to Virginia, *where he belongs.*"

The *Courier* has three or four columns, mostly from the pen of its Roman Catholic editor, full of the worst and meanest vindication of the proceedings of yesterday. It glories in the infamy of the proceeding.

The *Advertiser*, without the vile and offensive spirit of the *Courier*, fully justifies the slave-catching Commissioner, and yields to the decision with the excellent grace of conversatism. It must however look with some feelings of regret back to its issue of Wednesday, when, after the evidence for the prisoner was in, it expressed the opinion that he would be set free. The eminently respectable Commissioner must be sustained by the organ of respectability at even the hazard of consistency.

Public Demonstration in Haverhill.

HAVERHILL, June 2, 1854.

Mr. Editor:—The friends of freedom here received by telegraph the painful announcement that the fugitive, Burns, has been remanded back to slavery by Commissioner Loring. In accordance with previous arrangements, ALL THE BELLS IN TOWN WERE TOLLED FROM TWELVE TILL ONE O'CLOCK. A general regret prevails that, in the face of a *reasonable doubt*, the slave-hunting Judge has taken from a Massachusetts freeman his liberty, and with it all probable hopes of ever enjoying it again.

We hope to hear that every town in the State has made or will make suitable demonstrations of their abhorrence of this outrage. *

The above is from a correspondent. We learn,

in addition, that President Pierce, Caleb Cushing, Senator Douglas, and Loring, the slave-catcher, were hung in effigy across Merrimack street, near the Market House in Haverhill, this morning.

[For the Commonwealth.]

FALL RIVER, Friday evening, June 2, 1854.

An immense meeting of the citizens has just been held in the City Hall, over which the Mayor presided, to express their abhorrence of the scenes that to-day have transpired in Boston, and their utter detestation of the Fugitive Slave bill. A vote of thanks was passed to Messrs. Dana and Ellis for the humanity and ability with which they have concluded the case of Anthony Burns; also to officer J. K. Hayes for his course in resigning his office. Eloquent speeches were made by Hon. N. B. Borden, Rev. Messrs. Thurston and Hobart, Drs. Aldrich and Hooper, G. B. Stone, Esq., and others. A petition to Congress asking the immediate and unconditional repeal of the Fugitive Slave bill is in circulation.

The bells of the city were tolled from 3 to 4 o'clock.

Nev r before was there so much excitement in Fall River.

W. M. C.

Incidents of the Day.

We are informed that the Boston clipper ship "Wild Ranger" arrived at Alexandria, Va., last Sunday night, from the Chincha Islands. The captain of the ship, J. Henry Sears, on going ashore, wss followed and hooted at by the people, who made various demonstrations of violence. At the hotels he was refused admittance, because it "would not be safe for him to stop there." Finally he came by railroad, and he arrived Thursday night and reported himself to his owners. The Mayor of Alexandria did not call out the military to keep the peace.

We are also informed, on what we think the best of authority, that during the early part of this week, application was made by parties in the interest of the General Government for the privilege of having the steamer "John Taylor" come to Long wharf, for the purpose of receiving on board Burns and the United States officials, when the decision was made. To this application Mr. John H. Pearson, the principal owner of the wharf, gave an indignant *refusal*. Application was then made for Central wharf, with a like response. On Tuesday, however, Mr. Daniel Draper made application to Mr. Sampson, the wharfinger of T wharf, for the privilege of having the "Taylor" stop at that wharf some day during the week, say 15 minutes, to take on board *a water-party*, which was granted. It was not till Thursday that Mr. Sampson learned the true purpose of the "Taylor's" visit, when he remonstrated with Mr. Draper for his erroneous statement, saying the wharf could not be used for the purpose contemplated. Mr. Draper, however, replied that the arrangements were all made; that the business would be speedily concluded, and that a change of plan could not then be effected. Under these circumstances, the wharf was used. During the week, Mr. Sampso. resigned his post as wharfinger. It is not known at present that this was induced by any hope of reward held out by Draper for the use of the wharf.

The "John Taylor," at sunset, was reported 10 miles east of the outer station.

Deputy U. S. Marshal John H. Riley, and officers George J. Coolidge, A. O. Butman, Charles Godfrey and Wm. Black were detailed to accom pany Burns to Virginia.

The field-piece carried in the procession was taken to pieces on arriving at T wharf, before being taken on board the steamer.

Wm. Jones, the colored man who testified in the defence of Burns, was arrested yesterday for

Just as the steamer John Taylor left the wharf, a man cried out, "Well, I'm glad the nigger's gone." Scarcely were the words out of his mouth, when a sailor stepped up, and with the exclamation, "You lubber!" knocked him over. The fallen man got up and showed fight, when he was knocked down a second time. He attempted to run off, when some one shoved a board between his legs, which again tripped him up. At last he reached the military and claimed their protection.—*Traveller.*

MR. HAYES AND THE MAYOR.—The following is the letter of Mr. Hayes, resigning his position in the police force:—

BOSTON, June 2, 1854.

To His Honor the Mayor and the Aldermen of the City of Boston:

Through all the excitement attendant upon the arrest and trial of the fugitive, by the U. S. government, I have not received an order which I have conceived inconsistent with my duties as an officer of the Police, until this day, at which time I have received an order, which, if performed, would implicate me in the execution of that infamous "Fugitive Slave Bill."

I therefore resign the office which I now hold as a Captain of the Watch and Police from this hour, 11 A. M.

Most respectfully yours,

JOSEPH K. HAYES.

We understand that the Mayor was very anxious that Mr. Hayes should withdraw his letter of resignation, but he positively refused. His course is a highly honorable and praiseworthy one. The orders given to the police were to clear the streets. The military were then to be stationed at the entrances, and if the lines were broken, they had orders to fire without giving notice, and in case of a disturbance, the *police officers were instructed to save themselves, for the soldiers would fire indiscriminately.* This sanguinary order was issued by the Mayor of the city, for the purpose of "keeping the peace"—Heaven save the mark! The Mayor visited the Police Office on Friday morning, and said to the Chief, Mr. Taylor, that he had orders from *Commissioner Loring*, to have Court Square cleared. He was acting under the orders of the kidnappers' Court, and under the control of the Virginia negro catcher himself, during the whole of these troubles. Mr. Hayes' letter will be acted upon by the city government. Whatever they may do the people honor him for thus refusing to act in the seizure of a fugitive, under the bloody orders of the Mayor.

THE SLAVE COMMISSIONER BURNED IN EFFIGY.—About nine o'clock last evening, says the Lynn *Reporter* of to-day, a gallows was erected on High Rock, to which was suspended the stuffed figure of a man. Over the beam was the following inscription in large capitals:—

Commissioner Loring.

He will leave a scoundrel's name for future time,
Linked to few virtues and a damning crime.

Fire was applied to his extremities, and amid the groans and hisses of a large crowd, the figure was burned to ashes; after which the assembly quietly dispersed.

☞ We are requested to say that Governor Washburn did not order out the troops, and was not applied to for that purpose. The order came from the Mayor. We give the Governor all the benefit of the disclaimer which his friends are anxious to make for him. We see no reason to doubt, however, that the Governor fully approved of all the proceedings of the Mayor. The tone of his speech at the military dinner, was as subservient as the most imperious slaveholder could desire.

Courier and New-York Enquirer.

PRINCIPLES, NOT MEN.

MONDAY, MORNING JUNE 5, 1854.

There are two parties interested in creating the belief that Boston is but a nest of rabid abolitionists who are ready to resist by force the execution of any and every law of the United States rendered necessary by the existence of Slavery at the formation of the Union. These two parties are the rabid abolitionists themselves on the one hand, and, on the other, those who wish to use the passions and prejudices of the slavery propagandists as the means of acquiring political influence. The former are well represented by Mr. THEODORE PARKER, the latter by Senator DOUGLAS; the former find fit exponents in the Boston *Commonwealth* and the New York *Tribune*, the latter, in the Richmond *Enquirer* and the Washington *Union*. If we add to these such men and such journals as are ever ready to be carried with the strongest current in the stream of popular feeling, and who represent the Trimmers of JAMES II's day, we will have reached the sources of all the exaggerated accounts of the events which occurred in Boston during the last week, and of all the misrepresentations with regard to the sentiments of her citizens. The exaggerations have been gross, the misrepresentations almost slanderous. One authority speaks of *ten thousand men* under arms on Friday last; another of two thousand people around the Court House awaiting the decision of the Commissioner, and of twenty thousand people in State street, crying shame upon the proceedings; and another thus gives false color to some facts and misstates others—"That there was opposition to the "act is, however, seen in the means employed for its "consummation. BURNS was not torn from the soil "of freedom and consigned to slavery by any ordina-"ry methods of imprisoning malefactors. He was "not taken by a constable or a sheriff, or even a whole "police force of a great city. All these were insuffi-"cient. It took all the police of Boston, three com-"panies of United States troops, one company of "cavalry, and an entire battalion of militia, together "with several pieces of artillery, to secure the cap-"ture of this citizen and remand him to slavery."

These are but a few of the multitudinous misrepresentations, one other of which is that the field-piece, which made one of the "several pieces of artillery,' was loaded with grape-shot and accompanied by an artilleryman with a lighted match.

We speak from positive knowledge and personal observation, and, in every case, from these alone, in saying, that these statements, and all like them, give a very false impression of the occurrences which they profess to recount, and, no less, of the feelings of the community in which those occurrences took place. At the most there were *one* thousand men under arms in Boston last Friday, exclusive of the United States force: there were not three hundred men within a range of three hundred feet of the Court House on Friday morning at nine o'clock; there were not ten thousand men at any one time in State street on that day; and of those who were there, not one in ten cried shame upon the troops and police in the discharge of their duty. There were not "several pieces of artillery" brought into requisition; there was but one, and that was *not* loaded with shot of any kind. There was no such opposition as the passage which we have quoted implies; and it did not take "all the police force of Boston, three compa-"nies of United States troops, one company of Cav-"alry and an entire battalion of Militia together with "*several* pieces of Artillery" to ensure the execution of the Fugitive Slave Law on that occasion.

Of the throngs which appeared in the streets it was judged by those of all shades of feeling upon the exciting topic,—those who had mixed with them, listened to and talked with them, that at least seven in ten were mere spectators, men who if BURNS had been taken down the street by his master alone would not have intermeddled with their relations; and even of those who were more actively interested in the matter, a number comparatively very small, would have attempted a forcible rescue of the fugitive from the Marshal's force. Let this not be misunderstood or knowingly misrepresented as a statement, that comparatively few citizens of Boston wished the slave free. To make such an assertion would be to rival the perversions of those whose baleful efforts we seek to counteract. The large majority of the citizens would gladly have seen BURNS a freeman; and many blindly hoped that he might be refused to his master on technical grounds; but, except the few professional fanatics who make a venomous hatred of slaveholding and slaveholders their pet virtue, it would have been difficult to find a man who being asked, after the decision of the Commissioner, whether BURNS should be delivered, would not have answered—"Yes." The conviction of the overwhelming majority was that the law must be obeyed, and that the means necessary to ensure its enforcement without the loss of a single life among the rabid abolitionists, or of another life among the officers of the law, must be taken, distasteful, repulsive, even irritating as they were. "This," exclaimed a jurist of eminence as the troops were marching down State street, "this is "the bitterest dose of law and order that I ever took; but," he added in reply to an inquiring look, "it must be taken. We must hold our noses, shut "our eyes, and gulp it down." There were others around him who did not share his distaste, even for the means employed; others who felt deeply the abstract wrong of carrying a man into slavery, but who yielded this one with a good grace, because they had learned that it is impossible for every man to regulate private affairs, much less those of a public nature, according to his own peculiar notions of moral right and wrong. These were the sentiments of a gathering of men of all shades of political opinion; and among them only one was found who would not have had the fugitive given up after the decision, and even he would not counsel, much less offer, forcible resistance to the execution of the law.

What then, it may be asked, was the need of such imposing array of military and constabulary force? why were the citizens of Boston confronted with sabres and bayonets, and excluded from their public streets? The answer is obvious, upon a moment's reflection, to those who know the facts of the case. Remember that an armed attack had been made upon the United States officer and his posse, and that one man had been killed in the discharge of his duty, while bullets whizzed over the heads of his companions. This showed that there were in the city fanatical desperadoes who would not hesitate to slake their zeal with blood. Remember that it was necessary to conduct the slave a distance of three quarters of a mile through an avenue crossed by many streets opening into it from all directions; and that a rush of two or three hundred of such fellows as attacked the Court House a week before, down either of these streets, might easily have been made, and might possibly have succeeded in setting the slave at liberty in the tumult, but only at a fearful loss of life, if he had been guarded only by the Marshal's special posse. There were but two ways in which the transportation of BURNS could be effected. One, by carrying him immediately away in a carriage surrounded with an unarmed posse;

and many thought that this might easily have beer done, so comparatively small and calm was th crowd near the Court House just after the decision But there was a risk in this; and although it wa small, it could not with propriety have been incurred, and the only alternative was then necessarily taken, —that of securing all the approaches to the avenue through which he was to pass, as well as the avenue itself, with such an overwhelming military force, and such elaborate precaution, as to preclude all chances of collision or even contact between the citizens and United States officers and troops. This was done the State troops were employed not as an escort fo the slave, but to present a hopelessly impassable bar rier between the United States force and such mac men as might possibly have made attempts whic could only have resulted in riot and bloodshed tc terrible to think of. The Mayor asked for the troops solely to preserve the peace unbroken duri the execution of a law. The Marshal himself, as will be seen by the evidence on the investigation, did not arm his posse until the Court House had been attacked and one of them killed. No man who dic not wish to forcibly prevent the execution of that law had any thing to fear from bullet, bayonet or sabre; and no considerate man who did not so wish, would weigh for a moment the personal inconvenience to which h might be put against the chance that the measure which gave him a little annoyance would save th life of even one lawless and fanatical scatterbrain. The office of the *Commonwealth*, whence filth, cow itch, red pepper, and vitriol were thrown upon the men who were peforming their duty, under the laws of their country, fairly represented those who had really anything to apprehend from the arm of the soldiery on that day. Indeed th behaviour of the citizens generally, as we as that fo the troops, was highly praiseworthy the number of those even who hooted and hissed b ing comparatively small. A distinguished Russi savant, used to the government of bayonets, which en-

force an autocratic will, could not restrain his expressions of wondering admiration at seeing a thousand citizen soldiers armed to keep the peace during the execution of a law which was repugnant to the feelings of almost every one of them. The spectacle, regarded in that light, was indeed a noble one.

But still there is no denying the fact, that the means which circumstances seemed to require to preserve the peace entirely intact, were such as must ever be repulsive and deeply irritating in thi country. No American can, unmoved, allow himself to seem to be compelled by military force t perform a disagreeable duty, which he is willing t perform merely from his sense of duty. A demonstration like that of Friday last in Boston provokes antagonism just in proportion to its strength. It can hardly be repeated in Boston. The necessity for it will not be allowed to arise. It is, to say the least, very improbable that a fugitive slave will ever be arrested hereafter in that city. Means will be taken to put such as may arrive there out of the reach of the marshal.

When a law is hated, or has lost its moral force there are three modes of action which may be pursued;—unmurmuring submission, efforts for its repeal, and armed revolution. Massachusetts, in this case, will not, cannot adopt the first; she is not ready or willing to venture upon the last; but the will give her whole energies to the second. The feeling which the passage of the Nebraska bill has raised is one which will never be allayed until the Missouri Compromise is restored, or the Fugitive Slave Law repealed and the further accession of Slave States to the Union, whether from Texas or elsewhere, forever precluded.

EVENING TRANSCRIPT.

FRIDAY EVENING, JUNE 9, 1854.

COMMENT IS SUPERFLUOUS. The Richmond Enquirer publishes two anonymous communications, one of which suggests, as a retaliation of the "recent conduct" of some Bostonians, that the people of the South shall refuse to subscribe to any journal published in a free State, and dismiss from their employment any Northern men who have not given unmistakable evidence of their devotion to Southern interests and institutions; the other recommends that the the Southern people generally unite in declaring, that hence-forward they will never deal or trade, in any manner, with any community in which scenes similar to those lately enacted in Boston shall occurr, and that for every fugitive slave withheld, or rescued, hereafter, a Northern vessel in their ports shall be confiscated to the owner of the slave.

And these suggestions, the Enquirer says, "commend themselves to its approval, by their *manifest propriety and efficiency.*" [N. Y. Commercial.

THE NAVY AND REVENUE SERVICE. The Journal in alluding to the communication in our columns last evening, under the caption of "Our Gallant Navy" remarks:

Without expressing an opinion upon the propriety or impropriety of the conduct of the commander of the cutter Morris, in obeying the orders of government, we will merely state a fact of which the writer seems to be ignorant, that the cutter Morris belongs to the revenue service, and there is no connection whatever between that branch of the public service and "our gallant navy."

CONGRESS—THURSDAY, June 8. *House.* Mr. Giddings called the attention of the House to an article in the Union, counselling deeds of violence towards members of the House, and offered a resolution expelling Judge Nicholson and the reporter of that paper from the privileges of the floor. A debate ensued, in which Mr. Giddings read the article from the Union, in which Theodore Parker, Wendell Phillips, Giddings and others were declared to be without the protection of the laws and the Constitution.

CORRECTION.—We learn that the reports that John H. Pearson, Esq, the lessee of Long Wharf, refused to allow that wharf to be used for the removal of the slave Burns; that the wharfinger of T wharf, who let the premises for the business without consulting the proprietors, was promptly discharged on Friday evening, and that Col. Suttle was apprised of the decision of Commissioner Loring some twenty hours before it was given in Court, have no foundation in fact.

SLAVES RETURNING FROM CALIFORNIA.—The steamer Pampero, on her last trip from San Juan, brought up twelve or fifteen slaves, who, together with their master, were on their return from California to Georgia. These slaves were taken out to California by their master, in the spring of 1850, and as soon as practicable after their arrival in San Francisco started for the gold mines, where they have ever since labored faithfully, the proceeds of their labor rendering the owner wealthy. When they returned to San Francisco, the owner addressed them, and informed them that they were free, and offered to rig them out in fine style, and give each of them a sufficient sum of money to enable him to start fair in the world for himself. Without a single exception they refused. They had all been looking forward with great glee to return to the "old plantation," and the "old folks at home," and so back they all came, and by this time, perhaps, they are astonishing the young darkies, who have never left home, with the wondrous instances which befel them in the land of gold, and gratifying them with a sight of the monkeys, paroiquets, &c., which they picked up on the Isthmus of Nicaragua. The above facts are gathered from gentlemen who came through with the slaves and their owner, and who were perfectly cognizant of the matters stated.

[N. O. Picayune.

Charged with Murder.—Albert G. Brown, jr., John J. Roberts, Henry Howe, Martin Stowell, John Morrison, Walter Phenix, John Wesley, Walter Bishop, and Thomas Jackson, (the last four colored,) the persons arrested during the disturbance in Court Square, on Friday night, were brought before Justice Rogers, of the Police Court, on Saturday afternoon, when a complaint was made by Deputy Chief Luther A. Ham, charging the whole number collectively with having committed, with malice aforethought, a felonious assault upon the person of James Batchelder, with firearms loaded with powder and ball, and that they did kill and murder the said Batchelder. Mr. Ham proposed a postponement until Wednesday, as the Government were not prepared for an examination. J. A. Andrews and Chas. E. Davis, Esqrs., of Plymouth, appeared as counsel, and objected to the complaint on the ground that it appeared that the charge of murder was preferred against the whole number, thereby precluding the possibility of their release from imprisonment on bail, until the government were prepared for an examination. He also inquired if some of the prisoners were not arrested before the homicide took place, and if so, he held that they should be admitted to bail. The Court decided that might be true, it might appear upon examination that they might be accessories. Mr. Davis said that one of the prisoners was arrested long before the homicide, charged with putting out a lamp, to which Mr. Ham replied that he expected to prove there was a concert of action, and he would endeavor to be ready for the examination on Tuesday at 11 o'clock, but if not then ready he should ask for a further postponement. This statement was endorsed by the Court, and the prisoners were committed to jail.

More Arrests.—John C. Cluer and a colored man named Nelson Hopewell, were arrested and committed to jail, Saturday evening, on suspicion of being concerned with others, in the affair of Friday night. A colored man named James Pallam was arrested on a charge of stopping a carriage in School street.

Examination of the Rioters.—The examination of the persons, eleven in number, charged with causing the death of James Batchelder, on the night of Friday last, was commenced before Justice Cushing, in the Police Court, at 4 o'clock yesterday afternoon. M. H. Smith, Esq., counsel for John J. Roberts, moved for him a separate examination, on the ground that it would appear in evidence that he was arrested and in the lock-up about half an hour before the homicide occurred.

This motion the Court ruled not allowable, as the complaint had been made conjointly.

District Attorney Sanger stated that the testimony of Chief of Police Taylor, he being the principal witness, would be desirable as near the first part of the examination as possible, but from the fatigue consequent upon the day's excitement, it would be proper to omit it at present, and proceeded to the examination of evidence bearing upon the transaction inside the Court House.

Silas Carlton examined.—Am in the employ of U. S. Marshal Freeman; was in his employ on May the 27th; did not know Batchelder when he came to the Court House; first saw him after he was stabbed; it was near the South door on the west side; he was in the passage way between that and the Marshal's door; he was standing and trying to work himself out; should think he was little past the stair-way from the cellar door; was standing under the gas light; could see one-half the door; there were perhaps 15 men between me and Batchelder; there had been a previous attack upon the door, and it had been forced; can't say where I was when it was commenced; I heard the attack upon the west door before I left the east door; when I passed I saw Batchelder; he was trying to extricate himself from the crowd; he was working himself partly sideways; he came out and staggered along towards the Marshal's door, when I saw some one catch him, after which I took no further notice of him; I think it was the Marshal who caught him; saw him about 15 minutes afterwards, in the Marshal's office; did not examine his person.

Cross-examination.—By Mr. Farley—I acted under Marshal Freeman's orders. The door that opens on Court square, on that side, was locked; it was between half past 9 and 10 o'clock; the first I knew the Supreme Court was sitting was when they wanted to get out; the first time I came in was between 8 and 9; the last time a little past 9 o'clock; should think the Marshal had about 40 men; they were armed with clubs; heard that some were armed with other weapons; don't know who nor how many, were armed; this was when they came down to shut the door before the man was killed; can't say who had clubs; saw two or three; they were in the hands of those in the employ of the Marshal; it was after the first attack on the East door; saw pistols in the hands of those in the employ of the Marshal; there were 50 pistols in the building; can't say they were all in use. It might be 10 minutes after the door was forced; know there were 50 because I counted them, they were in the possession of the Marshal; don't know as there were others in the employ of the Marshal who had pistols before that time; should think it was from 20 to 30 minutes before 10 o'clock when this man was killed; don't know by whose orders the doors were shut; know some of the pistols were loaded; don't know but all were.

Direct examination—I know some of them were loaded after I saw Batchelder wounded.

Cross examination—Saw swords in the building; am sure that I saw no other weapons; saw swords after the door was open and shut.

Direct examination—A good deal of violence was used on the east door; couldn't say how long it was from that time to the attack upon the west door; think they went directly round by the way of Court street.

Isaac Bullard examined—Am U. S. Weigher on the wharf; was at the Court House on that night; came there about half-past six o'clock; the attack upon the west door was about half-past nine or twenty minutes of ten o'clock; the east door had been open during the evening; went to the east door a little past eight o'clock; was on duty there; it was from fear of an attack upon the building; about half past nine heard a hallooing on Court street; looked out; saw people coming up Court street thick and fast; several of our officers were standing on the east steps, and they had hardly time to get in and close the door; this was about two minutes before they reached the door; should think I saw 50 or 60 pass the light; could not understand as they said anythink; got the officers in and locked the doors; their manner was noisy and disorderly; several attempts were made to burst in the door; they then left and ran around the south side of the building to the west door; saw them leave the door through the window; expected they would knock in the side-lights; the next thing was their throwing brick-bats and breaking in the glass; I was just leaving the east door to go to the west; it was just about the time Batchelder was hurt, and was being carried into the Marshal's office; passed him about three feet from the door; did not say anything to him; he was then in the arms of two men; saw two colored men after I passed him; one was most out, the other's whole body was inside the door; we shoved him in and shut the door; they were forcing the door; something then came against the door; the door was only shut to; we could not fasten it; they jammed a timber through the frame; the door was forced a second time, when Batchelder was killed; the cry then with us was "let them come in;" am certain that a timber was used the second time; saw it come through the door about a foot and a half; it was about 14 feet long and six by ten inches square; we placed ourselves upon the stairs; we were in the passage way when the cry, "let them come in" and was made; we stood there a few moments: the first person I saw was Deputy Chief Ham; the door was closed and barred after that; heard several pistols fired around the South-west door; heard them fired when they were coming around the end of the house from the East door; heard one fired in the house after Batchelder was killed; was in the passage way when I heard the first pistol fired; it was before Batchelder was killed; think it was on the outside; there were three or four men ahead of me going toward the door; saw Batchelder in the Marshal's office six or seven minutes after I first saw him in the passage way; he was lying on his face some two feet from the door; saw no wound upon him; knew him before by sight but not by name. He was with the others employed by Freeman; think he was at the East door; think he left with two others.

Cross-examination — Have been employed by the United States as a weigher about 6 years; don't know as any one was armed that night until the door was forced; we all had clubs; saw no swords; there might have been 25 or 30 or more in the employ of the Marshal; there might have been 50 or more who attacked the east door; there was no further attack than pushing it; it was about two or three minutes before the attack upon the west door; first saw the timber when the panel was broken; brought it in the next day; the arms were furnished by the Marshal, after the attack; had nothing to drink besides water before the attack; had not drank any out of the building; there were no refreshments furnished until between 12 and 1 o'clock; it was something which I did not smell or taste of; can't say what liquor it was; it was furnished to all in the house; the attack was made at the west door before I left my station at the east door; did not see any attempt to enter the door after I saw the timber come through the door; the next man I saw was Mr. Ham; have been in the employ of the Marshal to-day; have assisted to take Burns off; was in his employ nine days; was in his employ when Simms was taken off; I ate my supper before I commenced service on Friday night last at Parker's; other men went with me; was in

their company afterwards that night, at the East door; received my orders that night from John Riley; drank no liquor at Parker's subsequent to the attack that night; saw none drank by those with me; saw cutlasses and pistols in the hands of the Marshal's assistants after the attack; they were brought into the passage-way by some one, I don't know who; we had orders to put them on, I don't know by whom; we then took our position on the stairs; the officers and jury of the Supreme Court came down when we were on the stairs armed; they effected their exit in some way through the Police Court room; the pistol fired on the inside was while I was standing near the Marshal's office, after the door was broken open the second time: think it was in the small passage way; think there were twenty-five or thirty who were armed with cutlasses and pistols; we stood upon the stairs until Mr. Ham came; think I remained upon the stairs until about 2 o'clock; the door was not fastened after it was first broken open until the second attack; did not hear any one in the employ of the Marshal say where they could obtain liquor; the cutlasses were in scabbards.

The Court here adjourned until 10 o'clock, this fore-

EXAMINATION OF THE RIOTERS.

Police Court.—Cushing, J.

The Court came in at 3 o'clock, yesterday afternoon, when Matthew Hale Smith, George F. Farley, J. A. Andrews, Edward Avery, Wm. L. Burt and John W. Browne, severally appeared as counsel for the prisoners, charged with the murder of James Batchelder.

Mr. Sanger, the District Attorney, was not present, and no witnesses had yet been summoned.

Justice Cushing read a list of the witnesses, and officer Ham accounted for them variously, some being on board the revenue cutter bound for Virginia, with the fugitive Burns.

Mr. Matthew Hale Smith moved that the prisoners be discharged.

The motion was supported by J. A. Andrew, Esq., who said that here were 12 men kept from their homes for the [illegible] days, on a charge of committing the highest crime known to the law, and yet no one was prepared to prosecute the case for the government.

The Court refused to entertain the motion for discharge, and decided that what witnesses could be found, should be examined.

Subpœnas were then issued, and pending the arrival of the witnesses, a petty case of assault with a tin pan, between two Irish women, (one of whom had a handsome child in her arms,) was tried and dismissed.

Mr. Sanger here made his appearance in Court, together with nine or ten of the witnesses.

The prisoners were now brought in.

Mr. M. H. Smith moved that Roberts be examined separately, as he was in the lock-up, under charge of the police, before the disturbance occurred.

The Court said it would be inexpedient to take that course, because the same ground would then have to be gone over two or three times.

The complaint was amended, on motion of Mr. Sanger, so as to represent that the killing was by some sharp instrument, instead of by powder and ball.

Mr. Sanger said one of the chief witnesses, Mr. Taylor, was so sick as to be taken home in a carriage, but the Court said the examination might proceed with the other witnesses.

Silas Carleton sworn.—Am in the employ of U. S. Marshal Freeman; ordinarily am a bailiff in Court; was in his employ last Friday, May 26; did not know Batchelder when he came here; first saw him after he was stabbed; it was between the Marshal's door and the outside door; opposite the south door on the back side; he was one of the foremost at the door; was standing and trying to work himself out kind of sideways; think he was a little nearer the door than the foot of the stairs when I first discovered him; I was under the gas light; could see one half the door as I stood; there were about 15 men in the passage way between us; there had been a previous attack on the door and it had been forced; they first attacked the east door; I held on to it; then they attacked the west door; the Marshal hollered to his men; think I had left the east door when they attacked the west; Batchelder was trying to extricate himself; went into the Marshal's door with Batchelder; think the Marshal caught him in his arms as he went in; left him there, and when I saw him again he was dead and lay within a foot of the north door of the Marshal's office; did not examine his person.

Cross-examined—Acted under no orders but those of the Marshal; the doors were all locked and people were forbidden from entering; the Supreme Court was in session; did not know that till the Court wanted we should help them get out; came in about 8½ o'clock the first time, second time about 9½; the doors were fastened before the attempt to break in; understood that these guards, about 40 in number, were armed with guns; do not know whether any one was armed while the doors were shut; before the man was killed, think I saw arms; saw two or three clubs in the hands of the Marshal's men; saw other weapons after the attack on the west door; saw pistols immediately after the killing; there were 50 pistols in the building; there was no opportunity to go out after them; counted the pistols over myself; think it was 20 to 30 minutes before 10 that the attack took place; had been to the Post Office just before; don't know who ordered the doors shut; the Marshal ordered them guarded; some of the pistols were loaded after Batchelder was killed; there were swords in the building at the time of the attack—pistols, clubs and swords; don't know of any other weapons; between the attacks on the east and west doors was only two or three minutes; the attack was violent enough to throw the lock out; don't know which way they went around the building.

Isaac Bullard—sworn—Am a U. S. weigher; was in the Court House Friday evening; was sent by my employer to the deputy Marshal, who told me to go up stairs into the room; know of the attack, about 9½ o'clock; the front door was open all the evening; went to East door about 8 o'clock to guard it from attack; (military band outside playing "Wood up"); about 9½ o'clock, heard a hurraing down Court street; looked out and saw people coming very thick and fast; several officers standing on the front steps; had barely time to get in before the crowd rushed agin the door; it was about two minutes after I saw them first; there were about 50 or 60; we got the officers in, shot the front doors and locked 'em—both locks; the crowd were disorderly; ten or a dozen stood around to keep them from bustin in the door; several attempts were made; then they run round the house to the southerly door on the west side; could see them and hear them go.

The next attempt was by throwing brick-bats and stones, breaking the windows; left the east door, and just as they were taking Batchelder to the Marshal's office, I passed him near the foot of the stairs, about three feet from the door, and helped put out two colored men; knew he was hurt, because the blood spouted out on me and on the floor; there was so much noise we couldn't hear what anybody said; two men were carrying him into the Marshal's office; of these two colored men, one was most out, and the other had his whole body inside; we shoved them out and shut the door; they faced out doors when I first saw them; something, I don't know what, come pretty solid agin my leg, and I thought I'd better leave, so I retreated and went back into the entry way; we couldn't fasten the door, and they jammed it in agin; then we let 'em come, if they would come; they forced it a second time; this was after I saw Batchelder; it might have been two minutes after I got to the door; saw a foot or two of the timber come through the pannel of the door the second time; it was a piece about 6 inches by 10, and from 10 to 14 feet long.

Then we placed ourselves on the stairs for defence; nobody came in for two or three minutes, when officer Ham put his head in; heard several guns fired; one pistol was fired from the inside after Batchelder was carried in; they were fired on the outside first; was in the passage-way, then; it was before I had passed Batchelder that I heard the first firing; think it was on the outside; went and turned Batchelder over, as he lay on his face, dead, six or seven minutes after I first saw him in the passage-way; did not see any wound; he was all blood clear up to his bowels; did not know his name before; had seen him on the wharf, trucking; saw him before that evening, in the U. S. Court Room; he was with the other Marshal's men; think he was at the east door when it first started; three of us was left to take charge of the east door.

Cross examined.—Come from Sharon, Mass.; there worked on my father's farm; have a family; lived in Boston 34 years; been in the U. S. employ about 6 years; am foreman for the weigher: there wasn't no arms come down to us men till the door was forced the first time; we all of us had clubs, a small little thing; could have knocked a man over with my fist quicker than with them; don't know how many men were in the Marshal's employ; they only pushed and jammed on the east door; saw about two feet of the timber through the door; was supplied with arms by the Marshal, after the attack; was not furnished with any strong drink before the attack; had drank nothing myself that evening; think refreshments were first furnished us between 12 and 1 o'clock; did not smell or drink of it myself, so I can't say it was liquor; can't say it was before or after 12 o'clock; it was an hour after the attack at least; the refreshments were furnished to all in the house; have been in the Marshal's employ today; went down to the wharf with Burns, under arms; was employed in the Simms case; have been in the Marshal's employ a week tonight; never caught a slave; another foreman took my place; did not ask whether he objected to coming here; ate supper at Parker's that night; some of the Marshall's men went with me.

Received my orders directly that night from John Riley; there did not any of that company drink liquor at the supper that night, or anywhere else, before the killing; saw a conflict that night, between the colored men and the Marshal's; saw no weapons used except them clubs; saw the Marshal's men have weapons, after the door was broke in; we was armed with cutlasses and pistols; they was brought into the passage-way; don't know who by; we put 'em on mighty quick; we had orders to put 'em on from somebody; then we had orders to let 'em in, if they would come, and took our position on the stairs; the Supreme Court came down stairs while we were there armed; they came down with the Sheriff at their head, and went through the Police Court room; the pistol was fired on the inside, after the door come to the second time; think it was fired in the passage-way; it was about the time we was putting on the arms; may be there was 20 or 25 of us; nobody took post at the south door; we did not leave the lower part of the building, I think, till half-past 2; I left about that time; don't think the door was fastened again that night; never heard that any of the men had liquor, or that we could have it in the building that night; the cutlasses had a scabbard, which we girded on.

The further hearing in the case was postponed till this morning, at 10 o'clock.

[Reported for the Boston Daily Advertiser.]

EXAMINATION OF THE RIOTERS.—On Friday afternoon the persons charged with being engaged in the attack on the Court House and the murder of James Batchelder on the night of the 26th May, were brought before the Police Court for examination.—Their names are as follows: Samuel Proudman alias John J. Roberts, Martin Stowell, Walter Phenix, (colored) John C. Cluer, Albert J. Brown, Jr., John Wesley, (colored) Wesley alias Walter Bishop, (colored) Thomas Jackson, (colored) Henry Stowe, John Thompson and John Morrison.

District Attorney Sanger appeared for the government, and Messrs. Matthew Hale Smith, John A. Andrew, William L. Burt, Edward Avery, George F. Farley, of Groton, and John W. Browne, of Salem, for the prisoners.

Two witnesses, named Silas Carleton and Isaac Bullard, who were in the employ of the U. S. Marshal, testified as to the attack on the Court House on the night of the 26th May, that they saw Batchelder after he was stabbed, and saw him after he was dead, but did not see any person inflict the wound.

The Court was then adjourned till Saturday morning.

At ten o'clock on Saturday morning the examination was resumed before Justice Cushing.

Isaac Jones was called, who testified that he was on duty in the Court House at the time of the attack. Just as he arrived at the west door, he saw it burst open, saw two or more men come in; they were colored people; saw Batchelder there; he was just before me, (the witness) and turned round and said "I am stabbed;" took hold of him and carried him to the Marshal's room, staid there with him till he died. There were six or eight men between witness and the door. Batchelder's face was towards witness, and he was retreating from the door.

Sullivan W. Cutting testified that he was in the Court House at the time of the attack, was with Batchelder when the door was forced in; saw three men come in; one had an axe in his hand; the white man was ahead; the other two were colored men; the white man and one negro fought in the door-way a moment and then went out; they fought with witness, Batchelder and another man; Batchelder was in front and bore the brunt of the attack; the white man had something in his hand which witness could not see; one of the negroes had an axe, the other had nothing so far as the witness could see; saw Batchelder receive a blow from a club; the three men were driven back; Batchelder was facing the men who came in; witness was at his left hand; the three men turned round and went out; witness looked back and saw Batchelder fall in the Marshal's room; did not know he was hurt, supposed that he was shot, as there were two or three guns fired into the door from without: Batchelder sallied, went back and fell; he was at that time engaged with one of the three men, which one witness could not tell; the minute the door was burst open they fired at the door; cannot positively identify any one there as the colored man who came in; thinks from his complexion Thomas Jackson was one; it was a large sized negro who had the axe; cannot identify the white man; thinks he had a stone or a brickbat in his hand; he struck Batchelder; he struck both hands forward at him; Batchelder struck him with his club and he went back to the door.

Dr. C. H. Stedman testified that he made a post mortem examination of the body of Batchelder; in the region of the groin, three inches to the left of the front bone was a smooth, clean incision which measured one inch in length; the wound was in an inward and backward direction, and the femoral artery was nearly divided; the depth from the surface was 6½ inches; the wound was upwards, so that the end was two inches higher than the orifice. On examining the head, there were four wounds through the scalp, an inch in length, there was a bruise on the forehead; one of the cuts was an incised wound, as if made with a sharp instrument; the others were made with a blunt instrument; the opinion was that the man came to his death from the sudden loss of blood following the division of the femoral artery, and that the wound was inflicted with a long, narrow and sharp instrument.

William Crowley corroborated the previous testimony, as to the attack on the door of the Court House, and that one of the colored men had an axe in his hand; some one gave him a clip with a club; he dropped the axe and witness took it up; met the Marshal and others carrying Batchelder to his room; cannot identify any one who was there. Two or three pistols were fired after Batchelder was carried in; the bullets struck the ceiling and fell down.

Watson Freeman testified as to the attack on the Court House; was near the west door with some 15 men when it was forced in; no words were spoken by the men that he could distinguish; saw no person distinctly outside after the door was forced; thinks there were one or two who came inside; was the second or third person back of the man who was stabbed; Batchelder and others were near the door endeavoring to prevent the crowd from entering; Batchelder exclaimed "I am stabbed," and as he staggered back witness partly caught him. The exclamation was made immediately after the door was forced. Heard firearms before and after the door was forced. At the time of forcing the door swords and pistols were in his private room. Is not aware that any of his men had any weapons other than "billies."

Adjourned till 10 A. M. on Tuesday.

Examination on a Charge of Murder.

John C. Cluer was brought before Justice Cushing, of the Police Court, Monday morning, on complaint of Luther A. Ham, charging him, with others arrested on Friday night, with the murder of James Batchelder, with firearms, loaded with powder and ball.

Mr. Ham asked for a postponement until today, stating that the government were not quite ready. Mr. W. L. Burt objected, stating that the Government have had time to make preparation to proceed with the examination. The Court sustained Mr. Ham's motion, and ordered that he be recommitted to jail. Mr. Cluer asked the privilege of remaining a short time at the Court House that he might have an opportunity to see his wife, as no one was allowed to visit him in jail, which request was granted. Mr. Cluer requested our reporter to state, that he did not leave Faneuil Hall on Friday evening until after the disturbance in Court Square. R. H. Dana and W. L. Burt are his counsel.

Nelson Hopewell, colored, was brought in on the same charge, and his examination postponed as in the former case.

ARRAIGNMENT OF THE RIOTERS.—Agreeable to assignment, the persons arrested on a charge of being accessory to the murder of James Batchelder, on Friday night last, District Attorney Sanger moved for a further postponement until 2 o'clock this afternoon, assigning as a reason that the government witnesses, most of whom were officers, were now on duty, and it would be impossible for them to be present, until the excitement in the matter in the other Court was over.

Mr. Farley, one of the counsel, suggested that the examination proceed at 12 o'clock, if the witnesses could possibly be present, which was assented to by the Court, but otherwise it commences at 3 o'clock.

A Clerical Mobocrat.

Recent news from Boston informs us that Rev. S. S. Higginson, of Worcester, has been arrested and held to bail in the sum of $3,000, to answer to the charge of being concerned in the late riots in that city.—This is the same *gentleman* who boasted that he was a conspicuous rioter in the last abolition rescue, in Boston. He and others of like kidney should be committed to a certain institution in Charlestown, set apart for felons. The New England pulpits have been profaned by such like incumbants until an especial effort is necessary to dislodge them from their places of refuge.

The public good, and the peace of society call for a signal manifestation of justice upon them; and when we recollect how exacting was the law in the case of Webster, we cannot but hope to see these black cloth bandits of New England put safely beyond the power of doing more mischief.

Commonwealth.

Boston, Tuesday, June 6, 1854.

The Late Event.---What Shall Come of it?

The people of Massachusetts are deeply moved by the results of the past week. This feeling exhibits itself first in the usual methods. The slave-hunter Commissioner Loring has been symbolically hanged, burned and buried in various places. With a slight disregard of the "fitness of things," in other places, Hallett, who is worthy only of tar, and Thomas, and Parker, who would be sufficiently honored by a *kick*, have been also suspended in effigy. The women of Woburn have transmitted to Loring thirty pieces of silver, of the smallest known denomination, indicating to him by this act, the views which they hold of the enormity of his conduct, in sending to a slavery worse than death, an innocent man. We must be allowed, while admitting the appropriateness of this gift, to protest against its being followed to any great extent. We object even to the addition of *ninety cents* to the legal fee of ten dollars, which Loring has received for his inhuman job. These demonstrations of feeling are honorable to the people. But we must have something besides. We *shall* have something besides, if all the signs do not fail us. There is a sense of burning indignation at the disgrace into which Massachusetts has fallen in these days; fallen so low as to be the jeer and laughing stock of Virginian slave drivers. Better than this, there is a stern feeling that if we do not before long *resist*, there will be no liberty left for any man among us; a knowledge, forced upon men by the events here and at Washington within three months, that now must the trial come between slavery and freedom; that the great enemy of our peace has obtained an advantage by the passage of the Nebraska bill, which, if followed up, will place the whole nation in absolute submission to its will, and leave no alternative but *serfdom or separation*. If this feeling among the mass of the people is not allayed by the tricks of political parties, great good must result to the country from the late terrible events.

A petition has been signed by many hundreds of influential men in this city, asking for the repeal of the Fugitive Slave act. It would be possible to obtain the signatures of nearly the whole people to such a petition. The bill ought to be unconditionally repealed. If this cannot be done, it ought to be modified, so as to allow a jury trial. We think that it would be practicable to bring the next House of Representatives to this last point. We believe that the law is unconstitutional in half a score of particulars, and that Congress had no power to pass it. A law which so outrages every legal principle known in the civilized world, cannot be in conformity to the Constitution. But whether this is so or not, it is clear, that the Constitution *demands* no *such* law as this. Another sort of law would be equally constitutional. The villany which bristles out at every section of this act, is a gratuitous villany; demanded not by the Constitution, but by the imperious power which rules us. It cannot work well. There has never been a case under it, in which the most atrocious practices have not been exhibited. In some, mistakes have been made as to identity; in others, men have been hurried off in secret, contrary to the genius of our judicial proceedings, which requires publicity; in others, the most gross and unpardonable usurpations have been committed upon the State courts; in others, men have been shot down without warning or notice, while attempting to escape. The act has transformed our courts into inquisitions, our judges into tyrants, and our people into serfs. The Burns case is no exception. Such an act, whether constitutional or not, is a *public nuisance*, and ought to be abated, without loss of time. We may petition, and we must do something more; elect men who will vote for the repeal or modification, and not wait for others to act upon the matter. This will unquestionably be one of the issues of the next Congress.

There is another way of preventing such scenes as were witnessed here last week.—Massachusetts is a *State*. It has a Governor of its own, with all the powers necessary to it; a Constitution which guarantees freedom to its citizens; a Legislature which may be made independent, and a Judiciary which will be independent if the people say so. Eleven years ago, at the time of the Latimer escape, and while we were living ander the act of 1793, the Legislature passed an act affording, if carried out, some security to the fugitives. In 1851, the Senate passed a stringent law, secur- the Habeas Corpus and Trial by Jury; but it was lost in the House. Vermont has got a Habeas Corpus act, which she has steadily refused to repeal, in spite of the Compromise years, and which she is not likely to repeal. No slave can be seized in Vermont, and hurried off by any such summary process as Loring instituted. We must have State legislation here, on the subject. We must aid the future Col. Suttles who come here, in their investigations as to identity, and as to the proof of ownership. A jury of twelve Massachusetts men would not be likely to give up to slavery a man who, like Burns, was *never proved to have been a slave;* or to give the preference to the testimony of a professional slave-catcher over that of half a dozen unprejudiced citizens of our own State; or to give up a man who was here the 1st of March, *as* the man who escaped the 24th of the same month. Th

things which Loring did a jury would not do. With a trial, instead of an inquisition; with a public tribunal instead of one guarded by uniformed and ununiformed ruffians, a slave case would not so excite the community as it does under the present system. If it is said no slave could be carried off, if a trial is granted, we admit it, and say there are many other laws which are dead letters, and cannot be executed and ought not to be. If the community has outgrown a law, it is quietly left, to be neglected by all men, or is repealed. Slave property, as well as other property, must take its risks, and one of these is its neighborhood with a community which refuses to deliver up fugitives.

We not only want a *State Law* on this subject, but men who will execute it; Governors, who feel themselves to be the independent chief magistrates of independent States: Judges and Attorney Generals, who believe in the rights of a State judiciary; Sheriffs who are willing to execute the only laws they are bound to know anything of, without a shivering dread of some collision or conflcit which is not likely to happen.

But these things,—repeal or modification of the law; State laws and State officers, who will execute them, we shall have to wait for. In the meanwhile, the war which President Pierce, as General-in-chief of the slaveholders, has declared against the free States is likely to be carried on with vigor. The *Tribune* quotes Mr. Toombs as saying that "bloodshed is a necessary bapttism of all social changes in a State, which is to be expected in the present crisis." He expects bloodshed before he shall succeed in calling the roll of his slaves on Bunker Hill. And there surely *will* be bloodshed if the business of catching negroes is persisted in. There is a way to prevent it. The way Mr. Hoar was prevented from bringing a suit in the South Carolina Courts. The way Abolitionists are driven out of Maryland and Kentucky. *Notice to quit* is served upon them. Such a notice ought to be served upon every slave hunter who appears in Boston, and by the chief citizens of the place. In Charleston and Norfolk, this is done by the leading men, who control the city; "solid men," and not the radicals. Let it be so in Boston. If fifty men whose names we think can be found upon the petition at the Exchange, should determine in behalf of the people that there should be no more slaves taken from here; no riots, no interruption of business, their will would be obeyed. In behalf of the Abolitionists, we venture to say that they would be glad to see the work taken out of their hands.

Cannot Boston men be as zealous for freedom and peace and good order, as Virginia men are for slavery?

More Kidnappers About.

We learn from a source we deem reliable, that five man hunters arrived in Boston, last Friday or Saturday, and are now stopping at one of our hotels. They have come to catch fugitives. One of them is said to be from New Orleans, and this fellow, or one of the others, whose name we have, visited some acquaintance of his in Chelsea.

It is also reported, that a man was seized in this city, Saturday, and carried to the Navy Yard; but we cannot find any authority for this rumor.

The man hunt was the topic of discourse in most of the Boston pulpits, Sunday. There was a general expression of indignation against it. Seldom if ever before has there been such a crowd at the Music Hall to hear Rev. Theodore Parker. Every place in it that could be made available for standing or sitting, was occupied, and many hundreds left, finding it impossible to get in. We have published a full report of his discourse, and it seems likely to have an immense circulation. Our readers are too well acquainted with him to need an invitation to read it.

The Boston Press of Monday.—The *Courier* is blessed not only with the meanest editors, but the meanest correspondents, of any paper in the city. One of the latter, "Civis," writes that "There have been many proud days for Boston, but none, I sincerely believe, to make us prouder of our old Commonwealth than this one." And he goes on to talk about the law of the land being calmly and deliberately sustained against "traitors, maniacs and cowards." He is especially grateful to the military, who saved "our sisters, wives and mothers from outrage," and rebuked "the infamous seditionist and the poor pitiable fanatic, the lawless demagogues, the cowardly instigators to midnight assassination," &c., &c. The poor flunkey winds up with some affected indignation against those who passed the Nebraska bill. Another writer, "A Hater of Mob-liberty," sends five dollars towards the purchase of Burns, and says that he "would have given fifty yesterday, rather than not have him delivered up." This exhibits his position very accurately. He gives—

For Slavery,	$50.00
For Freedom,	5.00
Balance for slavery	$45.00

The Roman Catholic editor publishes a letter written by Brent to Suttle, dated *March* 29, acquainting Suttle with the escape of "Anthony," and stating that he had not been seen since the 24th. The editor thinks this settles the question that the men who testified positively that they saw Burns at the Mattapan Works and other places in this city, on or about the

first of March were mistaken. Even if the letter is not a forgery, it proves nothing but the escape of some man, whom the writer calls "Anthony." There is nothing in it showing that the man who was carried off on Friday was the one who escaped. The evidence of Messrs. Whittemore and others, respectable citizens of Boston, is positive, that Burns *was* here in the early part of March; yet this has to yield, in the *Courier's* estimation, to the testimony of men who arrested Burns on a confessedly false pretence of larceny, and whose temptations were all towards perjury and forgery. The editor also makes a *quasi* defence of the ruffians who attacked Mr. Dana.

The *Atlas* has a letter from Hamilton Willis, which fastens upon B. F. Hallett the responsibility of defeating the effort to purchase the freedom of Burns. Mr. Willis and Col Suttle had come to an agreement on Tuesday morning, and were about to commit it to writing, when Hallett came in, and entered into conversation with Suttle. Presently, Suttle said, "I must withdraw what I have done with you." We both, says Mr. Willis, approached Mr. Hallett, who said, pointing to the spot where Mr. Batchelder fell, "That blood must be avenged." Whether the determination was the result of a despatch from General Pierce, or was the conclusion reached by the unconceivably base mind of Hallett himself, is not yet known. On Friday, Hallett, "the avenger of blood," as he considers himself, again defeated the effort. Can language adequately describe such a *miscreant* as this?

The *Chronicle* has a moderate article, sustaining the Mayor. It tries to set up a distinction which does not exist, when it says that "the State military was not under arms to execute the fugitive slave law, but to preserve the public peace and order." The *Chronicle* quotes a statement that Mayor Smith was braced up to the determination he came to by Attorney General Clifford, who told him if he did not use his utmost endeavors to suppress the riot, he would have him arrested and brought to account within twenty-four hours. The *Chronicle* also rightly interprets Governor Washburn's speech, as sustaining the orders of the Mayor.

The *Times* is endeavoring to excite animosity against the Commonwealth, by its statements regarding the throwing of vitriol and red pepper from the "Commonwealth building." We deem it proper to state, as a matter of fact, that these articles were *not* thrown from this office, or by any persons connected with the office, and that some quantities were thrown from *other* buildings in the neighborhood. We regarded it as an ignoble kind of warfare, though we have not heard of any great pity or indignation expressed except by these who, like the writers in the *Times*, are [illegible] it.

From the Women of Woburn.

To Edward Greeley Loring, Commissioner:

Then one of the twelve, called Judas Iscariot, went unto the Chief Priests, and said unto them, what will you give me and I will deliver him unto you? And they covenanted with him for thirty pieces of silver.—Matt. xxvi, 14–15. And thus Christ was sold into the hands of his enemies. In imitation of the Arch Apostate, you have sold Christ in the person of Anthony Burns. That your name will go down to posterity with the stain of blood upon it, is as certain as in the case of the betrayer of the Author of our Religion.

It is not to this end that we send you the enclosed thirty pieces of silver, but in order to show in this marked manner, our abhorence of your deed. We wish to show to the world, that in our view, no law can justify crime.

Judas did the whole thing legally; he received his pay from the proper authorities. He even consulted with them before he came to his decision. You sir, have acted in the same manner,—you have had your "band of men and officers" from the CHIEF RULERS, your Freeman, your Hallett, and together you have betrayed innocent blood; at your door also lies the blood spilt in your city.

It is said that you have been in our beautiful town; we ask you never to come here again. We feel that we have been disgraced by your act, in the eyes of the world, and that we could not bear your presence.

Sympathising with the inhabitants of your district, we also ask you to resign your office as Judge of Probate. We feel that the rights of the widow and orphan cannot be safe in your hands.

Signed by thirty women of Woburn.

Woburn, June 3, 1854.

Statement.

As the subscriber was standing in a wagon, with a number of other persons, to him unknown, near the south east corner of the new block on Commercial street, at the head of the passage in the rear of the stores on Long wharf, at the time the fugitive slave Burns was carried by, he was assaulted by a man who gave him a sword cut on the back of his left hand, and who gave his name as CAPT. EVANS, Co. A, and reported his business to be to "kill just such damned rascals as you (meaning the subscriber) are." The assault was committed just before he (Evans) ordered his men to be in readiness to fire. The object of this notice is respectfully to request those persons who were present at the time, and saw the transaction, to leave their names at 22 Union street.

A. L. HASKELL.

Boston, June 5th, 1854.

We take the following from the *Advertiser:*

Correction.—We learn that the reports that John H. Pearson, Esq., the lessee of Long wharf, refused to allow that wharf to be used for the removal of Burns; that the wharfinger of T wharf, with premises for the business, without consulting proprietors, was promptly discharged on Friday evening, and that Colonel Suttle was apprised of the decision of Commissioner Loring some twenty hours before it was given in Court, have no foundation in fact.

The *Herald* has a card from Capt. Cass, of the Columbian Artillery, (Irish), in which he denies the story that his company volunteered He says they were ordered out. This is no doubt correct. This company did only what the others did, obeyed orders. No more blame attaches to them than to the whole regiment.

WEYMOUTH, June 7. 1854.

Last night an effigy of Commissioner Edward G. Loring was hung upon the sign-post in Weymouth, and found suspended from it this morning. Underneath was written, "Commissioner E. G. Loring, a Northern bloodhound, bought for $10. Thus execration of the infamous deed spreads from place to place, and so let it spread, until the apologists of slavery shall hang their heads in shame. You may note the facts above stated in the *Commonwealth*, if you please.

LORING, the Kidnapper's Commissioner, was hung in effigy, in North Bridgwater, on Saturday night; the inscription upon the image, (which remained during the Sabbath,) was—

"*Commissioner Loring:*
The memory of the wicked shall rot."

FOUR EFFIGIES were discovered suspended upon the common, in Worcester, on Sunday. They were severally labelled, "Pontius Pilate Loring, the unjust Judge," "Ben. Hallett, the kidnapper," "Caleb Cushing, the bloodhound," and "Frank Pierce, Satan's journeyman." They were committed to the lock-up. The *Spy* describes them thus:—

"Mr. Cushing's eye appeared to be as badly damaged as was his leg in the ditch at Matamoras. The mask had fallen from Loring's face, and displayed him as the hollow hearted sycophant that he is. '*Forma Viris et prœterea nihil.*' The form of a man and nothing else. Hallett's spectacles had dropped from his nose, but his countenance wore the usual fiendish expression, which characterizes the man. Frank Pierce appeared to have taken a drop too much, and we should judge that the circumstances under which he then was, would compel him to forego his usual practice of attending church twice on the Sabbath."

BOSTON, June 5, 1854.

To the Editor of the Commonwealth:

Dear Sir,—Thousands have hailed with joy the decission to which the clergymen came, in their meeting of Thursday last, to hold a Convention for the purpose of consulting together, and determining what their duty is in the present Crisis of Freedom.

I now learn, however, with painful surprise, that the Committee of Twelve are inclined to fix upon Providence, or some other City remote from Boston, as the place where the Covention shall be held. It is quite certain, sir, that if this is done, it will diminish the interest which is felt, and prevent the attendence of very many who would come if it were held in Boston, and thus to some extent defeat the very object for which the Convention is called.

Boston is the centre of Railroad termination for New England. Here are numerous daily papers ready to spread the intelligence of what is done, over the whole land. Here, thank God, ye flourishes the Liberty Tree, and here, above all, the spirit of Freedom has been recently and most fearfully outraged. Here in one word are Concentrated *all those* incidents which are able by the Divine blessing to give to such a Convention the inspiration of an almost Omnipotent influence. I know that I express the opinion of thousands, when I say that the Convention should by all means be held in Boston, and at the earliest practicable date.

A BOSTON PASTOR.

To the Editor of the Commonwealth:

Within a few days I have seen it twice stated in print, that Thomas Simms, when he was sent to Georgia, by Commissioner Curtis, was whipped to death. The same statement has been substantially made before, if I recollect aright. It is very reasonable to suppose that it may be true—or, that if he did not come to his death in this way, it was occasioned by scourgings and other tortures.

I have all along felt a strong desire to know somewhat of the poor fellow, after he was doomed to bondage, and would therefore ask you whether you, or any of your correspondents, know anything of the history of Simms after he was returned to Georgia—when and where he died, and what was the *cause* of his death. The facts in his case, if truly and simply set forth by some one who knows them, would be of interest in the present state of public sentiment, and would point unerringly to the fate that awaits poor Burns. W.

—The New Bedford Mercury calls for Loring's removal from the office of Judge of Probate.

Commonwealth.

Boston, Wednesday, June 7, 1854.

MORNING EDITION.

FREE DEMOCRATIC STATE COMMITTEE.

The office of the Free Democratic State Committee is at No. 0 SCHOOL STREET, (up stairs.) Entrance No. 1 Province treet.

The "Military."

The last fifer has fifed, the last "red coat with a little tail" has disappeared, and in the terse language of Ben. Hallett to Sydney Webster, "law reigns." We therefore feel at liberty to devote some attention to the conduct of the military for the last ten days, particularly to the exhibition they made on Friday. We have already quoted some things, both to their praise and disparagement. We have stated that many of the soldiers, under circumstances of aggravation behaved in a discreet and patient manner, and we are disposed to find all the excuses possible for different conduct. We are told by responsible persons, that many of the soldiers disapproved and abhorred the business which they were required to aid; and we believe this to be so. At the same time the evidence is quite abundant that many of them did their "duty" with "alacrity." The speeches at the dinner of the Ancient and Honorable Artillery show no especial dissatisfaction with the work. It is stated that a large number of the Artillery refused to come out, because their commander, Hon. John C. Park had on Friday dressed his office in crape. Capt. Park alluded to this subject, and said (according to the *Journal*) that he did this as an expression of his grief, and of his political sentiments, but that he meant no insult to the military on duty. And he also said, that "when he heard that the orders had been issued on that morning, he said there were but two orders he had to give to any man doing duty on that day—the first was, in order to save his own neck, not to pull the trigger of his gun till he heard the order, and the second, if he pulled to be sure that his gun told home." "Told home" we suppose means *killed somebody*. We think no fault can reasonably be found with Captain Park, on the score of unwillingness to obey orders. Instead of the simple order "Fire" which is all that has been considered necessary heretofore, he would amend it by adding—"and be sure that your gun tells home."

At the dinner, Gov. Washburn spoke. All Governors are bound to go the military dinners and speak. Next to the Cattle Shows, the Musters and Military Dinners are the most available places for our Governors to show off. A Governor would be but half a Governor if

he discontinued attendance upon the dinners. Gov. Washburn has been to two within a week, and will go to two more, if needful. On this occasion he said pretty much what he said last week. He confronted the censure which had been cast upon the military. He added,—we quote from the *Journal*: —

"I stand on this issue :—the relation which the military held then—and God grant may ever hold to the peace of the community. We all know there are times when the military are needed to preserve the peace. They do not seek these occasions. You never saw members of the militia mingling with the mob and endeavoring to stir up an excitement. They are always ready for service, but they wait for orders before they move. The Commonwealth has given the power to certain officers to call upon the military in time of need, and when those officers give the order, the soldier—if he is a soldier—obeys. (Great cheering.)

"He spoke of the order by which the military were called out on Friday last, and said he might do so with propriety, as it referred not to himself. The order came and the military obeyed; they met promptly, and without stopping to ask what was the cause of the excitement or whether right was on the one side or the other, they showed themselves ready to obey their orders. Those who now blame the military for coming out then in obedience to the constituted authorities, and who greeted them with hisses and groans, do injustice to that body, and they will yet see cause to regret it. This he uttered not in the form of a threat; there are among those to whom he had alluded, many who are just and generous men, and in their cooler moments, as just men, they will do honor to you as they have heretofore, and as is ever done by men who regard the peace of the community as of more value than the peculiar notions of any class. Thus much he owed to the military; and he ought to strip these epaulettes from his shoulders and go back to private life, if he could see as noble a body of men as he saw the other day in Boston and not stand by them. This was all he had time to say, and he would add that it was carrying out the history begun in the formation of the company."

The Governor's allusion to stripping off his epaulettes and retiring to private life, was of course a mere accident. It is impossible to suppose that the prospect of re-election was at all connected in his mind with the defence of the soldiers.

His Honor, J. V. C. Smith, also spoke, and complimented the military very highly. He gave as a toast:—

"*Boston*—Its honor, its commercial integrity, its moral dignity and its influence are never in danger when they are entrusted to the keeping of its own citizens."

This is rather a remarkable toast to come from one who had so little confidence in the citizens of Boston that he had to call out twenty-two companies to aid the hirelings of the United States in keeping them in subjection.

But we have dwelt too long on this dinner. We notice in the papers, also, a meeting of the officers of the division, at which the humane object of purchasing Burns was considered. At this meeting the following resolve was passed:—

"That while we regret the unpleasant duty which has devolved upon us this day, yet we hold ourselves in readiness as citizen soldiers, at all times and at all hazards, when called upon, to support the supremacy of the Constitution and laws of the United States, and of this Commonwealth."

These officers are under no obligation whatever, and it is no part of their business to support the laws of the *United States*. They are *State* soldiers, at least until regularly called into service by requisition of the President upon their commander-in-chief, the Governor. But this resolve is only a specimen of the deplorable ignorance which exists in relation to the separate rights of the State and the Union.

It is of no use for us to protest against the doctrine of unhesitating and unreasoning obedience, which is held to by such men as Gov. Washburn and Capt. Park, and many others of the best men in the community. There is a good deal to be said upon that side of the question. But while we do not propose to make any radical onslaught upon the military system of Massachusetts, which no doubt has its uses, we must say that in our opinion, for the last few years, it has "cost more than it come to." Just before the Mexican war broke out, the military spirit was going down here, and the musters and other parades were notoriously unpopular. Many companies died out, and but few if any new ones were organized. At this time, for aught we know, society was as tranquil as it has ever been, before or since. Indeed there is very seldom any occasion for the appearance of the troops as preservers of the peace. The Mayor of Charlestown was considerably frightened a while ago, but without any reason, and with this exception there has been no occasion for the soldiers for a long while. After the war, the military revived, but even now has to be kept up by the most vigorous nursing, and by legislative bounties. We believe that no less than half a dozen statutes have been passed every year for several years, for the purpose of keeping the system alive.

But few people are aware how much the actual expense is. *Over sixty thousand dollars a year* are paid out of the State Treasury for the militia. And the public and notorious nuisances styled encampments, in the fall, are of immense expense, to say nothing of the incalculable injury to the morals of the population. The only purposes to which this expensive organization has been put, for several years, have been, 1st, to quiet the nerves of the Mayor of Charlestown; 2d, to furnish fun for the boys; and 3d, to help *carry off a man into slavery*. We think it is time to "calculate the value" of the Massachusetts "citizen soldiery."

HOLDING SLAVES IN THE FREE STATES. The new programme of the slave power embraces a resolution to establish slavery in the free states. The slaveholders openly boast that they will carry out this resolution, and to make this boast as insulting as possible, add that they will hold slaves on Bunker Hill. They are now using the "Lemmon case" to begin the accomplishment of this purpose. It will be recollected that Judge Paine of the Superior Court of New York, in accordance with all previous decisions of the same ques-

tion, decided that slaves brought into that state with their owner's consent, thereby became free. The Boston *Advertiser* noticing this case, says, "it has been decided in this state, in New York, and in other free states," that this emancipates slaves; but it should say also that the question has been so decided in the slave states, and that it cannot be decided otherwise, so long as it remains true that slavery is a local institution with no warrant for its existence but the local laws it has created.

The slaveholders now intend to have the courts establish that, in this country, slavery is the rule, and freedom the exception. Therefore, although the "Lemmon slaves" were paid for, and much more than paid for by subscription, yet the question has been carried to the Supreme Court of New York; and, if beaten there, they will carry it to the Supreme Court of the United States, which slavery expects to find quite subservient to its will. This movement is formally sustained by the Legislature of Virginia. The case is still pending in New York. We hope the *Advertiser* will conside it somewhat more carefully and speak of th infamous purpose of the slavery propagandis as it deserves.

WHAT THE PEOPLE THINK OF IT.—The late infamous man-hunt has exeited the people of Massachusetts from one end of the State to the other. Men of all parties and classes are roused, and are expressing their indignation, and their determination that such scoundrelisms of the slave power shall not be tolerated on our soil. The citizens of Haverhill, Monday, again suspended effigies of the leading creatures of the slave power at Washington, and displayed them aeross their prineipal street; and the poor creature who edits the *Banner*, having defended the business of man-hunting, some of them expressed their disgust by suspending an effigy of him. He seldom gets so much at tention from the publie. From all quarters we hear of intense feeling among the people. We notiee that the Springfield *Post*, (heretofore hunker dem.) feels constrained to come out as follows:—

"We do no injustiee to the South—we falter none in our love to the Union—we advocate no narrow-minded sectionalism when we proclaim, as our watchword hereafter, THE UNCONDITIONAL REPEAL OF THE FUGITIVE SLAVE LAW OF 1850. The present Congress has repealed the Missouri Compromise for the avowed purpose of doing away with Congressional legislation upon the slavery question. Let it, for the same reason repeal the fugitive slave law. If it fails to aceomplish that act of justice to the whole country, 'REPEAL' should be the rallying ery of all parties, in all future Congressional elections, till the deed which humanity demands, which Christianity prays for, without which even-handed justiee will not be satisfied, is aceomplished."

GOVERNOR WASHBURN.—In this erisis we sincerely wish that we had a Governor who was *good for something*. But Gov. Washburn, we are compelled to say, is a dead failure. The subjoined extraet from an artiele in the *N. Y. Tribune*, expresses the real fact about his conduet:—

It seems to us that the great omission of duty in the Burns case, was on the part of the Governor of the Commonwealth. He stood by and saw the State authority trampled under foot when the United States authorities resisted the serviee of the writ of personal replevin, which would have taken Burns out of the hands of the Federal authorities, and, as we understand the Massachusetts laws, would have brought the ease before a jury. Here was the point where something could have been done in behalf of substantial justiee. The writ of personal replevin should have been served if it had taken fifty thousand men to serve it. They would have been forthcoming if they had been wanted. But it would have taken no armed men, but only a little resolution, on the part of the Governor, to have vindieated the majesty of State law. But Governor Washburn disregarded the publie duties of his exalted station, suffered himself to be intimidated and the State to be humiliated by a paltry band of armed mereenaries of the federal power, and pusillanimously submitted to see the dignity and honor of the Commonwealth trod into the dirt. That abdication of his proper funetions teaches this lesson: Massachusetts must put her Exeeutive Government into the hands of men who will teach the slaveholders a lesson of State rights. This is her immediate and imperative duty. It is not the Federal Government that is the supreme authority in this Confederaey; the real sovereignty lies in the States. Upon all questions of personal liberty especially, the State authority is paramount. If we are not misinformed in regard to the eharacter of Massachusetts law, there is nothing needed now but an inflexible discharge of plain duty on the part of the Executive, to forever put a stop to such proceedings as have indelibly disgraeed that Commonwealth during the last week. The time is fully come when such an Executive should be plaeed in the Governor's chair. But, if it be otherwise, if Massachusetts laws are yet insuffi cient for the adequate protection of the citizen upon her soil, let a legislature be ehosen who will make such laws; and, if need be, let the people take measures to ereate a judiciary that shall give rightful interpretations to all law, federal and local. We are in the beginning of a radical movement, and must stop at nothing short of *results*. There is a great question in issue, between the people of the free States and the slave power, and one or the other must eompletely triumph. It is a struggle involving the very exis*t*enee of the free States, as sovereign and independent States. It is a struggle worthy of the loftiest effort, and demanding the sternest and most uneompromising discharge of duty. If the Northern States do not deserve the chains of slavery, they will rise in their might of eivil and legislative authority, and overwhelm those who give timid eounsels at this crisis, and will plant themselves upon ground worthy of free men and free States.

Instead of upholding the honor of the State and its laws, what do we find Gov. Washburn doing? He eame down here on Monday, with a erowd of Worcester people, and we heard great rumors about what he was going to do. He must have uttered some manly sentiment at home, to induee the Freedom Club to shout when his name was mentioned. But the friends of freedom and State rights had nothing but the eold shoulder from him after he reaehed Boston. He got into a different atmosphere when he arrived here. An iey conservatism enveloped and ehilled him, if there had ever been any warmth in his soul. He talked to the Bible Society, but said no word for freedom, so far as we can learn. The next we hear of him, he was sending the Adjutant General around to contradiet the story that *he* ordered out the troops, and not many hours after, he was saying that the one who did give the orders, and the men who obeyed, did right. And while the whole State was agitated by the intelligenee of the infernal deed eommitted on Friday, instead of humiliating himself for the degradation of the State at the feet of a Virginia slave driver, he went to a military jubilee, and repeated his lower law doctrines about the duty of unreasoning obedienee to orders. Massachusetts has had many erises within a dozen years, requiring firmness—from the eall upon her to furnish soldiers to fight Mexico, to the Simms case; and now to this last indignity. She has not had a man yet in the Gubernatorial chair. Will she eve[illegible]

THE FOURTH OF JULY. — The anniversary of that sublime DECLARATION, in which our fathers affirmed the inalienable rights of man and proclaimed their independence of tyranny, and to which they pledged their lives, their fortunes, and their sacred honor, occurs again about four weeks hence. It will be impossible for Boston, this year, to celebrate this anniversary in the usual manner. It would be an insufferable m ckery, like a dance of wild mirth in the house of mourning, or like feasting and revelry over the coffin of one's father. We agree with a correspondent, who says, "With great propriety the people of Massachusetts, and more especially we of Boston, may observe the coming Fourth of July as a day of fasting and humiliation; instead of the firing of cannon and the ringing of bells, let there be minute guns on the commou, and let the bells be tolled; and if there must be fire works in the evening, let a ferocious man hunt be the representation, to conclude with a show of the blazing effigies of Loring, Hallett, and the rest of those who doomed Authony Burns to slavery."

There is in the towns and cities around us an intense feeling of the outrage and disgrace of this infamous affair. The action of the Common Council of the City of Providence, shows how it is felt there. They refuse to celebrate the fourth with festivities, and instead propose to have the bells tolled morning, noon, and night.

"THE AVENGER OF BLOOD."—It is generally considered that B. F. Hallett was placed in rather a tight position by Hamilton Willis's letter. He has not yet made any attempt to extricate himself; but that mythical character, "H. W. Allen of Louisiana," made his appearance in the *Post* yesterday with a card, the substance of which is, that Col. Suttle applied to him to estimate the value of Burns. He rated him as being worth $1200, and Suttle was satisfied with this, and it was supposed that the bargain would be closed. But on Sunday, a friend of Allen, not a professional man, called upon him and showed him the statutes of Massachusetts, wherein it provides that any person selling a slave in Massachusetts is liable to fine and imprisonment. This law Allen exhibited to Suttle and reminded him of his danger, and Suttle therefore refused to trade. And Allen testifies that Hallett "was in no manner responsible for the failure of the sale." He closes by announcing that he shall be at the Brattle House, in Cambridge, for a month, and is authorized by Suttle to sell Burns, if any body is disposed to purchase.

We have all proper respect for Mr. Allen's legal opinions, but in this case we have no doubt he is in error. Commissioner Loring, who *drew up the necessary papers* for manumission, was of a contrary opinion. It would have been better for Col. Suttle to have relied upon Loring's judgment. Hallett himself, or even *Parker*, would have been a safer adviser. It seems that Allen has so little confidence in his own opinion of the law, that he is willing to do what he advises Suttle not to do, viz: to sell Burns. He runs no risk whatever. The attempt to exculpate Hallett from the guilt of stopping the negotiations, is a failure. Mr. Willis's statements remain uncontradicted.

☞ It is said by those who have carefully investigated the subject, that the betrayal of our Saviour by Judas Iscariot was conducted throughout in a strictly legal manner. No law was violated, except by Peter, who cut an officer's ear off.

THE MAIL AND TIMES.—The *Mail* comes to the rescue of the *Times*, in its futile attempt to excite odium against the *Commonwealth*. We copy from it the following:—

"*Futile Evasion.*—The *Commonwealth* newspaper, defending itself against the dastardly act of throwing vitriol and red pepper from the windows of that establishment on the military, last Saturday, says:—

'We deem it proper to state, as a matter of fact, that these articles were *not* thrown from this office, or by any person connected with the office, and that some quantities were thrown from *other* buildings in the neighborhood.'

"We deem it proper to state, that three men, who have a reputation for truth infinitely above that of the editor of the *Commonwealth*, saw the act perpetrated by persons in the premises occupied by that establishment, and who are prepared to identify the base cowards."

We repeat what we before stated; that none of these missives were thrown from this office, or by any person in any way connected with the office. And we defy the *Mail* to produce any evidence to the contrary. Furthermore, we will state, that we *forbade* the throwing of these articles from the office, or by any persons connected with it. That pepper, and perhaps vitriol, was thrown from the second story below our office, we have not denied, and have no reason to doubt. But those premises are no more under our control than are the rooms in any other building on State street.

The *Times* has a false statement as to our denial, and then boldly offers to prove—what we have not denied, viz: that offensive articles were thrown from the *Commonwealth building*. We have sufficiently explained this in reply to the *Mail*, and shall not waste words upon the *Times*. Its affected indignation at being charged with taking the pro-slavery side for *pay*, will excite only a smile among its readers. We have no reason to doubt that where there was no pay on one side or the other, *instinct* would induce the concern to take the side of oppression and villany, but we know also that it *has been* paid for taking the right side, and that it now receives *pay* for upholding a vagabond administration and an infamous law.

Gov. Washburn on Man Hunting.

The *Journal* gives a "full report" of Gov. Washburn's speech at the supper of the Independent Cadets, Wednesday last week. We extract from this report all he said to sanction and encourage using our volunteer militia to help catch and carry off fugitive slaves. Here it is:—

"Times may have changed, and opinions may be in advance of those that once prevailed, but, constituted as our government is, with the thousand exciting causes that are always at work in our community, with the sparse and feeble police which the law provides, he did not hesitate to say that without a military to fall back upon in the last resort, he did not believe that the government and the laws could be long maintained.

The incidents of this very week, in this very city, and now going on around them, was a painful proof of the truth of what he had said.

They had heard threats of violence and of a resistance of law, and to meet the fearful consequences of an outbreak of excited feeling, the Mayor had called on the military to preserve the peace, and with a spirit and patriotism, just such as the public had a right to expect, the troops had responded to that call with a promptness which could not be too much commended.

He had seen in some of the newspapers, that some of those who had been exciting and inflaming the public to resistance, had asserted that they had the sympathies of the Governor with them.

The charge is false. The man does not live who ever heard him, directly or indirectly, counsel or encourage a forcible resistance to law. Independent of what was due from him in his official position, he could not, as a man, be so lost to a proper sense of self-respect as to countenance such a doctrine for a moment. Whatever might be his sympathies with an individual who may be made to suffer under the action of a law; whatever might be his opinions of the wisdom or justice of a law—while it was a law it must be obeyed. No man would counsel otherwise who is not ready for a revolution. The remedy is to be sought in another way—it was at the ballot-box—it was to change the law makers—it was to repeal, not to resist a law, if we expected or hoped to maintain our Government as a free people.

God knew that as a legislator he never could have consented to the passage of an act with such provisions as some of those which are incorporated into the law which indirectly had given rise to the scenes they had been witnessing. And as a citizen he would go for its repeal. But he would repeat, so long as it was a law, no man who was not ready for a revolution could counsel a popular resistance to its enforcement.

These were his sentiments, and as their military superior he called on them to stand by and maintain the laws and the peace of the Commonwealth."

That speaks for itself. Let us examine it a little. It will be noticed that Gov. Washburn very earnestly denies what has not been said. He tells the Cadets that he has been charged with encouraging "forcible resistance to law," and says "the charge is false;" but this is not what was said of him by citizens of Worcester, who believed they knew what he thought of the slave-hunt before he arrived in Boston. They said only that he would execute the laws of the State, and not allow them to be trampled underfoot; that his influence would probably be given to enforce the writ of replevin; and that he would not tolerate an illegal use of the State militia. Something more was said of his views of the business of man hunting; but no one reported that he was in favor of "popular resistance" to the fugitive slave bill, or that he would do anything more than faithfully uphold and execute the laws of the State. He did not do what they said he would do; he did not even remain silent and leave the business with those who had it in hand; but we see in his speech to the Cadets, that he actually volunteered to give his whole influence to sustain the man hunters. Let him have the credit of it.

He told the Cadets, in plain terms, that they were called out to help execute the fugitive slave bill; and, "as their military superior, he called upon them to stand by and maintain" it. No other law had been denounced. No other law had provoked threats of resistance. The militia were not out to uphold any law of the city or State, for no such law had been threatened, nor had there been any "disturbance of the peace of the city," which the police could not quell with the utmost ease. They were out in the service of the United States as slave catchers, not legally called into that service, but thrust into it by our imbecile Mayor, in utter disregard of the forms and requisitions of law. This is what the Governor sanctioned, if the *Journal* gives a correct report of his speech.

One thing more in this report of his speech deserves notice. Gov. Washburn seems to be afflicted with a very painful and troublesome distrust of the people and their capacity for self-government. He professes to believe "the government and laws" would soon be overturned by the people and whirled into the untold horrors of riot and hopeless anarchy, "if we had not a military to fall back upon;" and he saw "a painful proof of this in the stir of indignation excited by the rascally business of man hunting. If the *Journal* reports him truly, he actually said this, as will be seen in the extract we have copied above. But we will not pursue the subject further, at present.

The Mayor and General Edmands.

A good deal of doubt has been expressed among the people of this city and by the press, whether the functionaries named above have not exceeded the authority vested in them. The *Transcript* has an article on this subject, from which we quote the following:—

"By Massachusetts law, no Mayor *alone* can order the troops called out to enforce the laws, to fire upon the people. That great power is only given to the Governor, the Judge of any Court of Record, or the High Sheriff. Of civil magistrates, other than the three classes above named, orders from *two* are required before arms can be used to disperse any unlawful collection of people. The law places mayors and justices of the peace upon the same footing in respect to this matter, and they must be on the spot, so that the military, in the language of the statute, can *'there receive'* orders from the civil magistrates.

"In this view of the case, the gallant conduct of Major John C. Boyd in countermanding the order to fire given by Capt. Evans of the Boston Artillery, saved us from the evils incident to such usurpations as mentioned above. Massachusetts has thrown around her citizens the most ample legal protection against the inconsiderate action of those dressed in a little brief authority."

The Mayor *alone*, by section 27 ch. 92, Stat. of 1840, (Supp. to R. S., page 175.) is authorized to *call out* troops "to aid the civil authority in suppressing such violence and supporting the laws;" but this statute nowhere gives any authority to the Mayor respecting the emergency in which he may order the troops to *fire* upon the people. To ascertain this then, we must refer to the only other statute provision concerning this matter, which is found in R. S. ch. 129, sec. 1, which directs, that "it shall be the duty of the Mayor, &c., to go among the persons so assembled, or as near to them as may be with safety, and in the name of the Commonwealth to command all the persons so assembled immediately and peaceably to disperse," &c. The fifth section of the same chapter goes on to provide for the case in which the military *have* been duly called out in the manner provided in the 12th chapter. It is made the duty of the military to obey the orders of the Governor, Judge of a Court of Record, or Sheriff of the County, that they may have received, "and also such further orders as *they shall there receive* from *any two* of the magistrates or officers mentioned in the first section."

Section six then provides, "If by reason of any of the efforts *made by any two or more of the said magistrates* or officers, or by their direction, to disperse such unlawful rioters or tumultuous assembly, or to seize and secure the persons composing the same, *who have refused to disperse*, though the number remaining may be less than twelve, any such person, or any other persons there present as spectators or otherwise, shall be killed or wounded, the said magistrates and officers, and all persons acting by their order or under their direction, shall be held guiltless and justified in law," &c. Thus, it will be seen, that an order can be given to the military to charge or fire only by the direction of some two *or more* of the civil officers named, and that only *after* they shall have, in person, and on the spot, ordered such assembly to disperse.

We learn that the order given by Captain Evans to fire was in pursuance of the general orders of Major General Edmands, and *not* by authority of the magistrates named. General Edmands has clearly usurped a great power, and should be held to a strict account.

Commissioner Loring and His Crime against Humanity.

The Boston *Journal.* in an article to some extent humane, although weakened by the unhappy moral cowardice which characterizes that paper, remarks, in relation to the terrible event of Friday:—

"We do not doubt that Commissioner Loring has honestly and conscientiously fulfilled the unpleasant duty which was devolved upon him, and while regretting most profoundly the result of this examination, we have no disposition to censure his course, or to criticise his decision. It is *the law*, and not its ministers, upon whom this act must be charged. The obloquy attaches to the law, and not to those whose duty *absolutely requires them* to enforce it. The distinction is broad and well defined, and must force itself upon the conviction of every unprejudiced mind."

Fletcher of Saltoun has said that "every true man will at any time willingly die to serve his country, but he will not do a mean act to save her!" We commend the sentiment to the *Journal*, and to the Commissioner whose cruel decision it attempts to palliate. We are willing to leave it to the common sense of the world whether the rendition of a man into slavery is not, as we affirm, a mean and wicked act, and based on a principle of servile obedience to the wrong that majorities crystalize into statutes which no independent and high minded man can acknowledge or uphold. How strange the curious net-work of casuistry in which men manage to entagle the simplest question of right and wrong. If obloquy attaches to the law by which a man is robbed of his liberty, then obloquy attaches to the man who executes the law! Why hesitate to call him who puts a sin into operation, a sinner? Why divorce the criminal from his crime? Why refuse to hold the deliberate agent accountable for the consequences of his acts? He who does an act to which obloquy can attach, does a vile act, and he who does a vile act, the unbiased sense of all men declares to be a villain—unless a necessity too absolute to be withstood compels him to its performance. What necessity compels Mr. Loring to the execution of a law to which "obloquy attaches"? What necessity compels him to hold the office of a United States Commissioner? Does he owe no duty as an individual man to his fellow men, and to his God? Is it his *"duty"* to accept an office in which he must agonize the hearts of black men and women, and arouse the souls of white men and women to the dreadful pity and cold, silent fury that gathers slowly and bursts in the tornado of revolution? Is it his *"duty"* to shock the moral sense of the community by an act declared monstrous and inhuman by the prayers and tears of multitudes, as well as by the stern deep chorus of maledictions that swelled and roared on Friday through the streets of Boston? How does such "duty" show, measured by the golden rule? No! This Commissioner stands as the executor of a hideous and cruel statute, entirely by his own free will and acceptance; and Massachusetts, whose humanity he has pierced through and through, will hold him responsible for the results consequent upon the acts of his official position. Give his conduct whatever gloss is possible, history will only know him as the Commissioner who sent back Anthony Burns. History will only remember in the record of his deed, that Judge Jeffries, also,—with a less polished brutality, it is true, but with an equal inflexibility,—performed *his* "duty"!

If ever there was a legal alibi sustained, this case sustained one. If ever there was a case in which the law allowed the entire unimpeached testimony for the defence to be set aside, and the confession said to have been made in this case by the prisoner to his claimant—and if so, surely made under intimidation—to be substituted as the basis for a decision, we have yet to hear of it! The rebutting evidence, even of this nature—the contradictory declaration made by the prisoner, when he was *not* under intimidation, to Messrs. Phillips and Pitts, and published by them, was not allowed any weight whatsoever. Such is the manner in which Mr. Loring "has honestly and conscientiously fulfilled" his "unpleasant duty!"

This is the verdict Massachusetts shall bring against him. Edward Greeley Loring, Fugitive Slave Bill Commissioner of the United States, by his own free will and acceptance—against the law and the evidence, and against reason and justice and humanity, has sent a living soul, fashioned in the image of the Most High God, and incarnate in a Man, back to the sorrow and darkness of SLAVERY! He has sent him back to be the dull, cowed vassal of a power, whose tender mercies are cruel; beneath whose savage scourge Thomas Simms expiated *his* crime of liberty, by giving up his life with shrieks of mortal agony to God! He has sent him back to the possibility of the same doom! For this the heart of humanity shall outlaw and hunt him, and his name and memory shall be gibbeted forever!

[For the Commonwealth.]

SOUTH READING, June 3, 1854.

Mr. Editor:—Dear Sir,—In haste, I write to inform you that the bells of So. Reading were tolled at sundown last evening. Great excitement prevails here. This morning, an effigy of Commissioner E. G. Loring was found suspended on an elm tree on the Common. After taking him down, a large number of the citizens gathered together to view the lifeless remains of the man who has sold himself to the kidnapper. A large placard was attached to his hat on the outside, bearing his name, and in the inside the following letter was found:—

"In consideration of the base, treacherous, and wicked act that I have this day commited; and knowing the sting of conscience, and the public scorn that will be sure to follow me, I have determined to rid society of my hateful presence.. *E. G. Loring.* June 2d, 1854."

Yours, &c., JUSTICE.

To the Editors of the Commonwealth:—

As one of those who have used every just means, short of an organized and armed resistance, to defeat the execution of the Fugitive Slave Act in Boston, during the past week, I ask for a short space in your paper to make a few remarks. I will say that I have taken no part in any violent assault or plan of systematised resistance, simply because I could not separate such acts, in their probable consequences, from civil war, and because I did not believe that Massachusetts was yet ripe for the revolution which it seems to be the deliberate purpose of the slave power to force upon the free States. Let me add, however, that with, I believe, a great majority of this community, my chief regret for the outbreak of Friday night, is that it was unsuccessful.

The first fact to which I wish to call attention is that Burns was carried back as a slave, not by the power of the United States, but by the civil and military power of Boston and Massachusetts, volunteered for this purpose. I am confident from observations and facts within my knowledge, that the United States force on the ground could never have reached the head of State street with their prey, if they had not had the streets cleared and defended by an overpowering force of Massachusetts military and police. We have been conquered by the prostitution of our own arms of defence to the unneccessary work of kidnapping.

It is also believed that the military were called out illegally by the Mayor, Jerome V. C. Smith. If this is true, I trust that *every person* injured, *personally* or *pecuniarily* by the acts of the military, will bring either civil or criminal suits, as the case may be, against the party legally responsible, whether it be the Mayor of the city, Gen. Edmands, or the officers or privates immediately concerned, in order to punish those guilty of putting Boston under martial law, for the purpose of aiding the United States in carrying off a fugitive slave.

I have one word to say of the slave Commissioner, Edward G. Loring. In his Opinion he has attempted to excuse himself on the ground that it is better that a good man rather than a bad one should do a felon's deed, because he will do it mercifully. It is from the same implication of good men in the slave system which alone makes it possible for Slavery to exist an hour in America. If it were not for the "kind masters," the Christian men and women of the South, (slavery aside,) the infamous institution would not this day be undermining our reverence for the name of law, breaking our peace and perilling the Union of this great republic. The "good" slave Commissioner, who casts his virtue into the scale of kidnapping, is vastly more responsible than the man who is in all respects the fit tool of Slavery.

In conclusion, I wish to place in the pillory of public opinion, the names of the following men: WATSON FREEMAN, EDWARD G. LORING BENJAMIN F. HALLETT, EDWARD G. PARKER and SETH J. THOMAS, as foes to the peace of this community, and traitors to Massachusetts freedom.

Truly yours, WM. F. CHANNING.

Boston, June 4th, 1854.

RICHMOND EXAMINER.

TUESDAY MORNING, JUNE 6, 1854.

End of the Boston Slave Case.

The concluding proceedings of this case are detailed in another column. The energetic action of the President, the strong arm of a faithful Executive, has done that which there should have been, but was not, patriotism enough in Boston to effect. The law of the land has been maintained in the face of the most furious, though most cowardly, opposition it ever before encountered.

Some of the minor incidents of the case, setting forth the character of Boston in bold relief for all time and all history, were a cowardly murder of one man by several thousands; the shameless perjury of a dozen paid witnesses; the knocking down in the dark with a slung-shot of a counsellor at law who had simply but faithfully performed his professional duty; and the hanging in effigy of certain officers of the law, with inscriptions appended in keeping with the thread-bare wit and cowardly act of midnight effigy-hanging.

We know nothing in all history capable of exciting so deep a disgust at the pusillanimity and meanness of spirit of any people, as these craven and sniveling proceedings at Boston. A mighty indignation, expressed and exhibited in a thousand forms and modes, was silenced and subdued at the sight of an ordinary military parade. A hundred thousand indignants, excited to the point of murder and madness, became as gentle as so many sucking doves before two hundred militia and marines. If the rioters, murderers, perjurers, preachers and solid men of Boston really believed themselves bound by humanity, divinity, the higher law, and the other many things sacred and profane, which they are in the habit of invoking—to resist the execution of the law—to quit their daily avocations, beset the temples of justice in howling mobs, swear false oaths upon the Bible at the witnesses' stand, and shoot down officers in the dark—they were also bound to go a step farther and to drive the handful of troops that opposed them out of town. In the presence of a few muskets, however, their humanity and indignation became perfectly tame and their courage oozed entirely out at their fingers' ends. A handful of soldiers marched triumphant and unmolested through the chief streets of outraged, indignant Boston, taking along the negro whom the people declared themselves religiously bound to rescue at every cost and risk. What a commentary is this upon the spirit and courage of Boston agitators. They have succeeded in demonstrating in all they have done at least this, either that their indignation was all rhodomontade, sounding brass, and tinkling cymbal, or that the valor, "manhood," enthusiasm for liberty and courage of the solid men of Boston, were all moonshine. To pretend that the Boston people are actuated by the spirit of the heroes of Bunker Hill is to slander the grave. They should have hung Bunker's Hill Monument in mourning as they hung their streets.

No Southern man, however he may be disgusted at the pusillanimity of the actors in these Boston scenes, will be satisfied with the result of TONY'S case. It is demonstrated that so far as Boston and Massachusetts are concerned, the laws of the confederacy are nullified, the constitution abrogated, and the Union virtually dissolved. The Fugitive Slave Law was pronounced by the South in 1850 to be the test of the continuance of the Union. It was not a *compromise* measure. It was not a concession from the North, (as other measures have been on the part of the South,) induced by motives of amity and fraternity. It was our *right* under the Constitution. It was due to us by the express terms of the compact of Union. It was enacted from the necessity of the case, in order to enforce the constitutional claims of the South, long shamefully disregarded and denied.

The Fugitive Slave Law is not on the footing of the Missouri act, or of any *compromise* measure of legislation *dehors* the Constitution. It is a part of the Constitution, of equal dignity, sacredness and inviolability. Resistance of the Fugitive Slave Law is resistance of the Constitution itself. Denying the claims of the South under it, is denying her equality in the Union, degrading her character, and adding insult to injury.

This is the effect of the recent action of Boston, and of Massachusetts who stands at her back. The meaning of the whole transactions there, last week, is, that she sets no value upon the Union, contemns the Constitution, and hates the South. The sum and substance of it all is *disunion—dissolution.*

Abolition papers, many Northern papers, announce that the feeling manifested at Boston is common to the whole North. If this be true, and if the South is to be denied her plainest and most undisputed constitutional rights except at the point of the bayonet, what is the Union already but a rope of sand? If a standing army is become necessary to enforce the Constitution and the laws enacted in pursuance of it, it is time to arrange the terms of dissolution

That is in fact the issue proposed by the abolition leaders who were the chief fomenters of the Boston sedition. They have already resolved that DISSOLUTION shall be the practical issue of the country henceforth. The less violent of the abolition party propose *Repeal of the Fugitive Slave Law* as the test—which means nothing more than flat nullification of the Constitution—which means *dissolution.* The Boston mob only anticipated the result proposed by the party of which they are a part. They only endeavor to effect by seditious outbreak, by formal perjury and street murder, what the abolition party propose to accomplish by partisan agitation and legislative agency. It all means the same thing. It is all a crusade against the Constitution, the Union and the South. The manner and place of accomplishing the work, is of small moment to the South, if the work is to be accomplished, and if the general sentiment of the North is in favor of the work.

The South has no cause of congratulation in the event of this case at Boston. The law was maintained; but not by the force of a wholesome, conservative, loyal public opinion. It was maintained in defiance of public opinion, and in the teeth of popular tumult. It was maintained at a cost to the country of a sum reckoned at thirty thousand dollars, the greater part of which the South must pay, and the whole of which seditious, penny-wise, Boston will receive. A victory of this sort is too expensive to be of any value; and costs too great an exertion of *power* to be palatable to any man's *patriotism.*

The patriot is left, in view of this case, but one hope; and that is, that there is but one Boston at the North, and but one Massachusetts in the Union,—that among all the States and communities of the confederacy, Massachusetts is the one ARNOLD, Boston the one JUDAS.

Free Soil and Mob Law.

The streets of New York, Boston, and other Northern cities, are daily exhibiting the beauties and blessings of free society. Their reformers have been expending for many years some money and a great deal of philanthropy, in aiding black negroes to flee from their Southern homes and rush into the seething cauldrons of Northern freedom and licentiousness. They have been less earnestly and eagerly receiving, welcoming, and valuing at a thousand dollars a head, the hordes of foreign nomads who have fled from aristocratic, exhausted and senile Europe, to enjoy liberty, free farms and social equality in America. The terrible condition of society, where the abolitionists most do congregate who are so concerned about the mote in the eye of Southern society, is manifesting itself more and more alarmingly every day. Mobs, outrage and murder, are the order of the day at the North. Fugitive slaves and foreign emigrants are becoming the ruling powers in Northern society. The one have got control in Boston, and the other carry the day in Brooklyn.

Desperate diseases require desperate remedies. The Know-Nothing organization—secret, disorganizing, seditious, bigotted, reckless of law of human life, and of social consequences, has been established to keep foreigners down and under foot. The necessity of such a remedy proves the dangerous extent of the disease.

They have no popular organization as yet, however, to put down in-flocking negroes and fugitive slaves. They are still received with open arms, and no matter how black the color or strong the odor, with warm embrace. Indeed, Northern reformers prefer the Southern negro, educated to submission, obedience, industry and respectable deportment, to the bestial, coarse, revolutionary, lawless foreigner. The good manners and habits carried by the negroes from the South, will soon leave them however, and their white husbands, wives, paramours and employers will soon learn that these good qualities like their color are but "skin deep."

The European emigrants whom GREELEY values at a thousand dollars a head, are really better stock than the African. The latter, when free, deteriorate towards their original African brutality, the former rise and advance towards their original, normal, proud, elevated, noble Caucasian nature. If all members of society are, as at the North, to be equal, then we should prefer European emigrants as companions and sharers of our political destinies. If, on the contrary, society is so constituted (as at the South and as shown by the history of all ages of the world,) that a portion of its members must be subjected to the other portion, then we prefer an inferior race, like the African, to occupy that position, a race whose nature, moral and physical, is elevated by the civilization of which he enjoys the benefit.

The abolitionists and rich classes of the North take the other view of the subject, and for very good reason. They pretend to welcome though in fact they abhor, hate and fear the European em-

igrant. They cordially and sincerely invite and receive fugitive negro slaves amongst them, each one thinking himself benefited in his estate and his household and farming operations to the value of one thousand dollars for every negro that accepts his philanthropic patronage. He breaks down white "Trades Unions," with the negro. He loves to domineer as domestic lord, and Cuffee is the only human creature who will indulge that tem- per.

The classes at the North who patronise and welcome the negro are the classes most interested in putting down the price of labor—the classes most antagonistic to the mechanical and manufacturing laborer. Northern papers carefully keep these truths from the democratic working men and emigrants around them, because they would expose the tricks of the capitalists who support newspapers, and cheat, rob, and oppress labor. The rich men and their tool, the press, invite Southern negroes to abscond, and foreign paupers and criminals to emigrate to the North, in order to make labor cheap and abundant, and to put down the wages of the poor. But they vastly prefer the negro. SEWARD proposed to Governor SMITH to exchange ten thousand Irishmen for as many free negroes; but Governor SMITH saw no wit and much brutality in his remarks, and treated them with indignation and contempt. Who is SEWARD? His name is not historical;—a wretched *parvenu* like the most of the rich at the North where meanness is the road to success, where society is inverted and the meanest are uppermost.

Mr. JEFFERSON saw and said that the working men of the North were the natural allies of the South. We of the South propose to keep our slaves at home to produce the raw material to be manufactured by Northern laboring men. We think white men the superiors of negroes, better fitted for mechanical, manufacturing and artistic operations, and would not bring them in competition with the negro as the Northern Abolitionists, Northern capitalists, and most of the Northern editors are doing. These affect a love for Southern negroes; but in truth only love their own purses and are ready to sacrifice mankind from every clime to fill those purses. Northern white laborers will not see these reflections, because but one or two Northern papers are likely to publish them but they are true, nevertheless. Indeed, the facts are so obvious, that they must soon occur to the classes most interested in them.

[For the Boston Courier.]

THE EXECUTION OF THE LAWS.

It is done; the majesty of the law is vindicated; that law which our fathers made, and which we have been reared under, and are to guard and transmit to our children. There have been many proud days for Boston, but none, I sincerely believe, to make us prouder of our old Commonwealth than this one. We have seen the law of the land calmly and deliberately sustained, at noon, in our principal thoroughfares; after the honor of thousands of traitors, maniacs and cowards had been pledged against it. The noble display of citizen soldiers, the right arm of our liberties, was keenly gratifying to me. How many faces I recognized among those gallant troops, faces familiar to my earliest school days, and which brought back many of the happiest scenes of the past! What were they out for to day, men from every profession and calling in New England, with bayonet and loaded musket? To say to their fellow-countrymen, our sisters, wives and mothers are safe from outrage; our homes and property guarded from the incendiary and ruffian, and ourselves from lynching and tyranny. The infamous seditionist and the poor, pitiable fanatic are alike rebuked by this grand demonstration. There was not one soldier nor one policeman too many; every volunteer in the state would not be too many to march slowly before the eyes of the lawless demagogues, the cowardly instigators to midnight assassination, thrusting the wounded public dignity down their throats, and dragging their vaunted honor in the dirt. Though their manhood is proof against shame, and their obtuseness superior to that of the ostrich, yet I think they will hardly affect to plight their *honor* again that our laws shall be set at naught, and the Constitution trampled on.

Was there a man, of all the host that came forth to-day from the bosoms of their families, who thought of slavery as a matter for like or dislike, who let his inclinations weigh against his duty to his country? Not one, I hope; yet there are but few of us who do not feel the institution of slavery to be a monstrous anomaly and a blot on the American name, who do not pray, if they pray at all, for its erasure from our otherwise glorious escutcheon; certainly, for myself, I would forego every other earthly ambition for that of seeing our noble country rid of its incubus, its disheartening cankering disgrace;—but who thought of all this to-day? We turned our backs on the South, we forgot their bad faith, their indecent disregard of all our dearest and most cherished hopes and sympathies; we thought only of the nation, of the whole country, of Washington and Webster and our other household gods, proud to be their countrymen and joint heirs in destiny; of our precious rights and liberties, established by our forefathers, and cemented and hallowed by the blood of pure unselfish patriots. We remembered the splendid future of our country, not to be fulfilled by base trading in principles, nor by crazy imbecility; but by broad, enlightened, manly progress, subject to the limitations prescribed by the Constitution, our great bulwark and defence: trample that under foot and we become all slaves to a power compared with which the servitude of the southern negroes is the freedom of the wind.

Good is sure to come out of evil, and the lessons now learned will fix the traits of patriotism firmly in many a heart, and the true genius of the hour will be made clear to those who may, many years hence, do their country service in her hour of fore need.

As to the South, she has broken faith with us. This is a strong accusation, but I say it deliberately and coolly. The North would never have submitted to the fugitive slave bill if such an insult and outrage as the repeal of the Missouri Compromise, regarded by every one as final and binding on the nation, could have been apprehended. Nevertheless, we have kept our faith with her, kept it solemnly and rigorously, in letter and in spirit; indeed our commonwealth has behaved nobly, and in a manner worthy her best days, though the duty was odious and hateful; and she may now justly compare the vindicated honor of the North with the "chivalry" of the South. We do not forget the Northern votes given against the almost unanimous spirit of the North; let us hope that they were given conscientiously, and that the senators and representatives who cast them may be politically ruined forever.

But we have earned the right to speak out, and I hope the Northern press will let the people of the South understand distinctly that the hearts of the most conservative Northern men are profoundly moved at this time; and that men who never thought to do it, men who emulate the compre-

hensive national virtues of Webster, are forced to count the cost of separation, as a course which, however painful, may be the only one left them reconcilable with conscience and honor. How can we consent to see slavery extended to territory now free? If it cannot exist there, how dares the South trifle with that subject on which the whole North is most keenly sensitive, and for a whim, the vain assertion of an empty *right*, precipitate upon us again that bitter contest of instinct and reason which has hardly ceased to rage, and which sets all the generous blood of the North throbbing. Let the press entreat the South to pause ere she goes too far, for if the trusty conservative North once calmly makes up its mind to embrace an issue so momentous as disunion, its energy and courage will not be found unworthy of its lineage. No commonwealth ever had a more glorious past, we cannot submit to a base future. All gentlemen will forever feel it a point of honor to protect the institution to the South, against all enemies, within its present limits, at least until some effort of the South itself may be successful in banishing it; but slavery must not be extended. If this last statement sounds too much like those of the Abolitionists, who say constantly the thing which is not, and make threats which they dare not stand to, let me say that I hope, in the name of every sentiment Americans should prize, that the limits of slavery may never vary but to decrease, and our fair land in some distant future lose its curse and take its stand as the first on earth in everything appertaining to civilization and Christianity.

Sir, one word more. It has been said that the United States government is willing to pay the expenses incurred by the town in the proceedings of the past week. I hope the response to this offer will be as dignified as her whole conduct in the affair thus far has been. The last penny in Massachusetts would be well spent in support of the supremacy of her laws and her dignity, and she does not yet need any assistance in governing her unruly or misguided children. She can do even the hardest work, if her allegiance to the Constitution demands it, so long as she consents to enjoy the privileges and protection of the latter.

CIVIS.

—An effigy of Commissioner Loring was discovered in Saugus, Mass., *hung by the heels!*

—The Washington *Union* now advocates the annexation of Dominica.

—Anthony Burns was a regularly licensed minister of the Gospel in the ranks of our Baptist brethren, *and belonged to the same church with Col. Suttle.* The Mohammedan law declares that the shackles on the slave of the Moslem shall fall off in that moment when he becomes a proselyte to the faith of Mecca. It is left for *Christianity* to witness and to sanction the holding of one church-member in bondage by another!—*Congregationalist.*

The Slaver Arrived!

A despatch from Baltimore, dated yesterday, says that the revenue cutter Morris, with the fugitive Burns on board, arrived at Old Point Comfort, Virginia, on the 8th inst. Burns was put on board the Richmond steamer en route for Alexandria. It is proposed to give the officers a public dinner at Norfolk.

Col. Suttle left the cutter, and took passage in a vessel bound to New York, and thence returned to Alexandria by land. Burns is represented as being glad of his escape from Boston; but this of course is a lie.

DEMOCRATIC ADVOCATE.

THURSDAY, JUNE 15, 1854.

COWARDLY MISCREANTS.

During the late disgraceful scenes which lately transpired in Boston, a certain portion of the people, feeling indignant at the course of *Theodore Parker* and *Wendall Phillips*, were about giving these cowardly miscreants a taste of their own "higher *l w*," but upon their claiming protection of the civil authorities, they were ordered out, and the devils allowed to rave and howl at their pleasure, What quintessence of hypocrisy! To advise armed resistance to the law and then claim its protection! Poor miserable cowards! The meanness to counsel murder, and not the courage to face the gibbet!—How can the *thing* Parker stand in the presence of his God, and smack his lips over the warm blood of a newly sacrificed victim! We have reference now to poor Batchelder, who was shot *dead* in the discharge of his official duty. If the civil authorities will not enforce law, let the people take it into their own hands, and shoot them down as they would highwaymen or murderers. It is too late for argument—they know their crime, and only seek *notoriety*. It is something which appeals to every man's good sense and better judgment, and if each individual is privileged to defy law because it does not happen to agree with his own notions of propriety, and idea of right and wrong—cast all law to the winds, let revolvers and bowie knives determine the question, plant a few well directed round shot into these fanatical mobs, and suspend a few *Parkers* and *Wendall Phillips* from the bough of the first tree, and the cowardly assassins will scamper like frightened sheep. We never knew one of these ranting ultra braggodacios but that would run when he passed a grave-yard in the evening. They settle down in certain misguided communities, get a *transcendental* control of the public mind, throw themselves back in perfect security in the easy chair of Public Sentiment, make slaves of their followers, profess to be brave, but the veriest cowards physically and morally, that the Almighty ever moulded into the shape of human beings. We speak strongly, for we feel it, and we believe we shall be sustained, at least, by the good opinion of every sober-minded citizen. We counsel no armed neutrality, but war to the knife. The error has been in allowing the miscreants a lease of life so long as they have. We glory in the scoundrels punishment.

—Two effigies profusely labelled and intending to represent U. S. Attorney Hallett and Commissioner Loring, were found suspended from a tree in Beach street, Gloucester, on Saturday night.

Commonwealth.

Boston, Saturday, June 10, 1854.

THE SIMS COMMISSIONER.—A few days ago, the New Bedford *Mercury* indulged in some caustic remarks relative to the advertisement of Commissioner Curtis, in which he announced that he was still in the business of negro-catching, and might be found at the old stand. These remarks have excited the ire of Mr. Curtis, and he has sent a very long letter to the *Mercury*, remonstrating with that print upon the publication of its "exceedingly offensive article." He alludes to the *Atlas* and the *Springfield Republican* as being engaged in the laudable undertaking of directing popular odium against him. He is determined, however not to be crushed. The substance of Custis's remonstrance is this: that he saw that a systematic effort was to be made to drive Loring from the discharge of his duty, and among other means was the statement that Curtis had declined to act in the case. He did not choose to leave Loring to these inferences or imputations that he alone of all the Commissioners, was willing to execute the law, and therefore caused the statement to be contradicted. He also notices the insinuation that he was actuated by the fear of losing five or ten dollars occasionally, and says that he has been called upon on several occasions to act under the fugitive statute, but never took a fee for any such service, and never shall take one. He has a *public* motive and that is this: He says there are three or four Commissioners, out of the five or six appointed in the city, who from their age and experience may be fairly supposed to be more fitted to try these cases, with *safety* to the rights of the *fugitive*, than ome of "our younger brethren," and their decisions, for this reason, would be more readily acquiesced in. Every one of these three or four has to consider, that in refusing to act, he is "depriving the community and the fugitive of a part of their best defence against an ignorant, or passionate, or heedless, or unskilful administration of the law." And he adds—"For myself, while this law remains on the statute book, no amount of popular odium that can be excited against me by the press of the Commonwealth, of whatever name, will ever induce me to take a step which will have any tendency to reduce its administion in the city of Boston into *incompetent or unsafe hands*. The office is of no value to me whatever, but I believe it to be of some importance that I should continue to hold it while this law exists."

Such brazen and boundless assurance we have never met before. The idea that Curtis and Loring are of value to the *fugitive*, is one of the strangest that ever mortal man entertained; and the idea that these cases were brought before such persons on account of their superior fairness, integrity and knowledge, is equally absurd. We can tell Curtis and Loring that they were selected for this infamous woak, not for their legal knowledge or any other good quality, but for the well known *predominance of the bloodhound element in their natures;* in other words, for their complete subserviance to the demands of slavery. If they had a spark of manliness or honor, they would be shunned by the kidnappers, though they were as wise as Story or Marshall.

THE LADIES OF WEST MEDWAY have addressed a letter to Mr. Commissioner Loring, upon the subject of his recent exploit in sending Anthony Burns into slavery. They remind him of certain laws, which, with all his learning' he seems never yer to have heard of; they are contained in the *Bible*. They quote for his benefit certain commands, such as "Thou shalt not deliver to his master the servant that is escaped unto thee." And the following, being a significant condemnation of *Bribery*—"A wicked man taketh a gift from his bosom to pervert the ways of his judgment." They tell the Commissioner that when he took a bribe of $5, to send Burns into slavery, he joined hand in hand with "those who frame mischief by the law," and betrayed Christ in the person of one of his disciples. They conclude by saying—"The paltry sum of money you have probably received, but it will not buy a Potter's field of sufficient size to bury your disgrace. As to popular favor, you have shown yourself entirely unworthy of it. You have rendered yourself infamous, not in the eyes of *women* merely, but in the view of every man of honor. He who winks at bribery is not fit for office of trust and emolument. We therefore pledge ourselves to influence our fathers, husbands, brothers, sons and lovers, to withhold their votes in favor of yourself or any other man who will carry out the Fugitive Slave Law." The letter is signed by 152 ladies of West Medway.

These ladies have also written to Mr. Joseph K. Hayes, in which they thank him for "the noble and manly stand he took relative to the late nefarious transactions in Boston," rejoice that he had a heart true and brave enough to spurn the business of kidnapping, and say to him—"Should you ever come to our beautiful village, (as we hope you will at some future time,) you will receive that respect and attention which your noble conduct so richly merits. May your name be kept fresh in the memory of the good, and be spoken to posterity whenever they are called upon to admire Nature's noblemen."

—The petition for a repeal of the Fugitive Slave Bill, that has been receiving signatures at the Merchants' Exchange, has now been forwarded to Washington, in charge of Mr. Rockwell, Mr. Everett's successor. Nearly three thousand names are on it. This is the first instalment. Another petition is now on the table and has already received fifty or sixty signatures.

WHO ARE THE GUILTY.

There can be no doubt that the citizens of Boston are justified in attributing to the Rev. Theodore Parker and Mr. Wendell Phillips the chief responsibility for the fatal proceedings of Friday night. Both of these gentlemen are sufficiently known to the public to prevent all surprise at the position which they have taken in this affair. The first, who seized the first opportunity to do all in his power to vilify and degrade the memory of Daniel Webster, has achieved, with a reputation for talent of high order, a notoriety as an abettor of almost every violent measure and disorganizing scheme which is hatched in the over-wrought brains of the extreme progressiveists. Bitter, relentless, reckless, he not only denounces fiercely, but he excites artfully, and from the reports of his part in the meeting of Friday evening at Faneuil Hall, it appears that he used all the power of which he is master to rouse the persons present to an open and forcible resistance to the laws. He roused their jealousy, he stung their pride, he flattered their self-appreciation, and while alluding to their determination, he cast the slightest possible slur upon their courage. What wonder that, finding them in the mood in which he found them, he sent them out from his presence an infuriated mob! And this man is called reverend, because he claims to be a minister of Christ's religion. He had a worthy yoke-fellow in Wendell Phillips, a man who, without a tithe of his talent, has all his bitterness and more than his recklessness—a man who glories in confusion for confusion's sake, the breath of whose nostrils is contention, and the desire of whose heart seems to be the utter extirpation of every thing which good men venerate. It was fitting that such a man should repeatedly urge his hearers to form a guard round the court house occupied by officers of the law, for the purpose of preventing the execution of the law, and that he should point to the successful resistance to the law in the case of Shadrach as an honor, and to the successful execution of the same law in the case of Sims as a disgrace to the citizens of Boston.—*N. Y. Courier & Enq.*

Arrest of Mr. Higginson.—The Worcester *Spy* says:—

Mr. Higginson was notified, an hour before the cars started, that a writ for his arrest was in the city in the hands of a Boston officer, and, after making some necessary arrangements, he walked to the cars, unaccompanied, delivered himself to the officer, and proceeded to Boston, for the purpose of answering to the charge, like a good citizen, as he is. So manly a course of conduct on his part, we are happy to say, was duly reciprocated by officer Ingalls and other officials of the law, and Mr Higginson speaks in the highest terms of their urbanity and politeness, especially of their deep solicitude lest the "impounding" of the "shepherd" should prevent the "flock" from listening to his ministrations on the Sabbath day.

Melancholy Affair at Milton Lower Mills.—Learning of a suicidal affair which recently took place in the above named village, we made inquiries of a friend in that neighborhood, and received the following statement of the particulars:—

Milton Lower Mills,
Monday Morning, June 12, '54.

Dear Sir,—I was extremely sorry that I was absent this morning when you called, but presume your mission was to obtain some of the particulars in relation to the suicidal affair which recently came off in our midst, and therefore proceed to give some of the outlines from which you may draw some more correct views of the case. The gentleman alluded to (if such he may be called,) was well dressed in a black super broadcloth coat and pants, with a black cap drawn over his eyes, his hands tied behind, feet tied, rope under the left ear, &c., all in the usual form, the decorations or inscriptions as follows:—In front of the cap was painted in large letters, "Traitor;" across the breast was also in large letters, "It is my desire to be returned to my bosom friend, S. Arnold Douglas, and him to ask forgiveness of the clergy of New England." Underneath the above was painted in large letters, "Franklin Pierce;" on the lappels of the coat, in front, were as follows, to be sung on the occasion, the tune Russia—"False are the men of high degree," &c.; 2d, tune Upton, words, "Believing, we rejoice to see the curse removed." The person above alluded to was shortly after cut down, no doubt for the purpose of obtaining his clothes, as they were of some value. I transmit the private paper found in his pocket; you will please notice them as you may deem proper. In haste, yours truly.

The following is the "paper" referred to:—

Washington.

Oh! the tortures of conscience; give me another *glass* or I shall hang myself.

Oh! Douglas! Douglas! the Nebraska bill and the fugitive slave law have been my ruin. I have one consolation left, my son has gone where he can know nothing of the disgrace I have brought upon my country. I shall be detested by posterity.

Oh! what torture. Franklin Pierce.

—A writer in the *Atlas* calls for additional *State* legislation on the subject of the fugitive act. The statutes of 1843, which prohibited judges, justices of the peace, sheriffs, deputies, coroners and jailors from acting under the law of 1793, ought to be amended so as to apply to the law of 1850. And it ought to be provided that any man who aids as commissioner, marshal, deputy marshal, or otherwise, in the execution of that law, shall be forever disqualified to hold any office in Massachusetts. Furthermore, the writer holds that no man who shall hereafter appear in any court, as counsel for a slave-hunter, and give professional aid in procuring or endeavoring to procure the surrender of a fugitive, shall be permitted to practice as attorney or counsellor in any court of the Commonwealth, except under a special power of attorney.

The President in Effigy.—The *Bunker Hill Aurora* reports that the President of the United States was hung in effigy on a tree at the corner of the square, on Friday night. On the breast was a cross, and in the right hand a long whip, with the word "Nebraska" at the end of the snapper. The inscription on the effigy was "Frank Pierce, the Northern traitor."

The
Kidnapping
of
Arthury Bean

1854.

Pt I.

DAILY ADVERTISER.

BOSTON:

FRIDAY MORNING, JUNE 9, 1854.

THE CIVIL AND THE MILITARY POWER.

PROCLAMATION! *To the Citizens of Boston.* To secure order throughout the City this day, Major-General Edmands and the Chief of Police, will make such disposition of the respective forces under their commands, as will best promote that important object, and they are clothed with full discretionary powers to sustain the laws of the land.

All well disposed citizens, and other persons, are urgently requested to leave those streets which it may be found necessary to clear temporarily, and under no circumstances to obstruct or molest any officer, civil or military, in the lawful discharge of his duty. J. V. C. SMITH, Mayor.

Mayor's Office, City Hall, Boston, June 2, 1854.

The foregoing proclamation was issued by the Mayor of Boston on the day of its date. In accordance with its terms some of the principal streets of the city were taken possession of by a formidable armed force. All business was suspended and great personal inconvenience was the result. That the chief executive officer of the city acted in good faith and with a conscientious desire to do his duty, there is no necessity to deny. Whether it was discreet to place the city under the keeping of officers never chosen for that purpose by the citizens;—whether it was wise in the existing state of excitement to give a remarkable prominence to the military arm, and whether there was any real necessity to mortify the public spirit of a law abiding community like ours, by the establishment of a sort of martial law, are questions which have been much discussed, and in relation to which the opinions of men are undoubtedly very much influenced by their feelings.

There is one point, however, to which public attention cannot be too early or too earnestly called, and that is the *legality* of the orders referred to in this proclamation, and of the proceedings under it. Martial law, says an eminent writer, which is built upon no settled principles, but is entirely arbitrary in its decisions, is, as Sir Matthew Hale observes, in truth and reality no law, but something indulged rather than allowed as a law. "Martial law," said Lord Loughborough, (2. Henry Blackstone's Reports 98) "such as it is described by Lord Hale, and such, also, as it is marked by Mr. Justice Blackstone, does not exist in England at all." In all free countries, although the militia are justly regarded as a most important element of a sound government, there always has been a great jealousy of the exercise of any power by it over the citizen, in times of peace, except under the direction of the civil magistrate. As early as 1769, the House of Representatives of Massachusetts, at their first coming together, resolved that it was inconsistent with their dignity and freedom to deliberate in the midst of an armed force; and that the keeping an armed force, military and naval, in and about the metropolis, while they were in session there, was a breach of privilege. Time has not diminished this jealously of authority administered by men in arms. The descendants of those who framed this resolution are not less ready to resent any attempt, or any appearance of an attempt, to place the military above the civil power of the State, except in those emergencies and under all those sanctions and limitations pointed out by the law.

What, then, are the powers and duties of the public authorities relative to the Militia in Boston, in times of popular commotion? By the city charter the Mayor is the "chief executive officer of the corporation." It is his duty to be vigilant and active at all times in causing the laws to be duly executed and put in force. For many of his duties he is personally responsible. He cannot resign his office. Nor can he delegate his duties to others. Least of all can he retire, even for an hour, and place over the citizens, persons and personages who are not designated by the law for that purpose. The administration of police, together with the executive powers of the corporation generally are vested in the mayor and aldermen. The means within their control to enable them to enforce the laws and preserve the public peace are most ample. Not to specify them all, it is sufficient to mention the Statute of 1838, chapter 123, which was a special law for Boston (and now made general by Statute of 1851, ch. 162) and authorized the mayor and aldermen at any time, upon any emergency, to appoint such and so many police officers as they may judge necessary, "with all or any of the powers of the constables of said city, except the power of serving and executing any civil process."

By virtue of this law they may at any time appoint fifty, five hundred or five thousand special police officers, all of them at once armed with power to make arrests and to keep the peace. It must be a serious state of things when this power is not sufficient to preserve the public order. These officers, to be sure, are in the peaceful garb of citizens. They have no fire arms. They do not march to martial music. They are not attended by the pomp and circumstance of glorious war; but men of experience know, that fifty policemen, who understand their duty, are at any time and under almost any circumstances, equal to five-hundred riotous citizens. Those who undervalue this most efficient power, know but little of it, or are timid men who never feel secure except under the smoke of gunpowder.

Undoubtedly there are instances when something more is requisite. These are extreme cases. But they are very rare. They occur but few times in the age of a man, in civilized communities and in free countries. The law contemplates these occasions and has made most careful and minute provisions for them. What are the cases and what are the rules that govern them?

I propose to consider this important subject in three points of view. (1.) When may the Militia be called out? (2.) By whom may it be called out? (3.) Under what authority does it act and what may it do when called out?

1. *When may the Militia be called out?* This question may be answered in the very words of the law: "Whenever there shall be in any county, any tumult, riot, mob, or any body of men acting together by force, with intent to commit any felony, or to offer violence to persons or property, or by force and violence to break and resist the laws of this Commonwealth, *or any such tumult, riot or mob shall be threatened.*" (Statute of 1840 ch. 92. Sec. 27.) In these cases, the militia may be called out by express provision of law; and any officer who neglects or refuses to obey the call, "shall be cashiered, and be further punished by fine or imprisonment, not to exceed six months." (*Ibid sec.* 26, 28.) Any non-Commissioner officer or soldier who neglects to appear and to obey all lawful orders is liable to a fine of fifty dollars. (*Ibid, &c.* 28.)

2. *By whom may the Militia be called out?* This question may also be answered in the precise language of the statute of 1840, ch. 92, Sec. 27. When there is any actual or threatened riot, as before mentioned, "and the fact be made to appear to the commander-in-chief, or the Mayor of any city, or to any Court of Record sitting in the county, or if no such Court of Record be sitting therein, then to any Justice of any such Court, or if no such Justice be within the County, then to the Sheriff thereof, the commander-in-chief may issue his order, or such Mayor, Court, Justice or Sheriff may issue his precept directed to any commanding officer of any division, brigade, regiment, battalion or corps, to order his command, or any part thereof, describing the kind and number of troops, to appear at a time and place within specified, TO AID THE CIVIL AUTHORITY in suppressing such violence, and supporting the laws."

It may be proper to remark here, that the foregoing provisions in the statute of 1840, respecting the calling out of the Militia are a revision of the Revised Statutes ch. 12, sections 134, 135, 136, with

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some alterations. For instance, by the Revised Statutes the "Mayor of any city" was not authorized to call out the Militia at all. It could only be done by the commander-in-chief, a Court of Record, a Judge, or the Sheriff. But by the Statute of 1840, the "Mayor of any city" was added to the list of those authorized to make the call. The Statute of 1840 however, makes no provision as to the duty of the Militia when called out, and this still rests upon the provisions in the 129th chapter of the Revised Statutes.

3. *Under what authority does the Militia act, and what may it do when called out?* This question is also answered by the law in language too plain to be misunderstood. All the proceedings in such cases are specially pointed out in the 129th chapter of the Revised Statutes. On examining this chapter, it is very obvious, that recourse to the militia is lawful only in the last resort—that every judicious measure is to be taken in the first instance, and it is only on failure of every peaceful effort, that those in authority may recur to the dreadful alternative of an armed force. The civil magistrates are themselves *to do something*. They cannot, without an effort on their own part, call upon the militia to do their work. The first section provides, that in the case of any riot, "it shall be the duty of the Mayor and of each of the Aldermen, &c., to go among the persons so assembled, or as near them as may be with safety, and in the name of the Commonwealth to command all the persons immediately and peaceably to disperse," and if they refuse to disperse, the magistrates are to command the assistance of all persons present to seize and arrest the rioters, and any person refusing so to assist is himself to be deemed one of the mob and punished accordingly. Any Mayor, Alderman, Selectmen, Justice of the Peace, Sheriff, or Deputy Sheriff, having notice of a riotious assembly, and neglecting to do what is before mentioned, is guilty of a misdemeanor, and *liable to a fine not exceeding three hundred dollars*. The fourth section provides that "if any persons who shall be so riotously or unlawfully assembled, and who have been commanded to disperse, as before provided, shall refuse or neglect to disperse, without unnecessary delay, any two of the magistrates or officers, before mentioned, may require the aid of a sufficient number of persons, in arms or otherwise, as may be neccssary, and shall proceed in such manner as in their judgment shall be expedient, forthwith to disperse and suppress such unlawful, riotous or tumultuous assembly, and seize and secure the persons composing the same, so that they may be proceeded with according to law."

"Any two of the magistrates before mentioned;" who are they? Clearly any Mayor, Alderman, Selectmen, Justice of the Peace, Sheriff or Deputy Sheriff. Any two of *these* may proceed "in such manner as in *their* judgment shall be expedient."—There is nothing here surely, giving to any *one* of these magistrates the power to proceed in such manner as *he* may deem expedient. Still less can any one of these magistrates *delegate* this important power to a general who is not named in the law at all. Then, we come to the fifth section, which provides that whenever an armed force shall be called out "in the manner provided in the twelfth chapter," and shall have arrived at the place of such unlawful assembly they shall obey such orders as they "*may have* received from the Governor, or from any Judge of a Court of Record, or the Sheriff of the County, and also such further orders *as they shall* THERE *receive from any two of the magistrates or officers mentioned in the first section.*"

It is a matter of some doubt, whether this section would apply at all to the case of troops called out by *the Mayor*, because the language is, "whenever an armed force shall be called out, *in the manner provided in the twelfth section.*" Now, by the "twelfth section," a Mayor is not authorized to call out the troops. By that section, they can only be called out by the Governor, a Court of Record, a Judge, or the Sheriff. It is only by the statute of 1840, that a Mayor can call them out. But, if this section does apply, it is very clear, that it does not justify the course recently pursued in this city. By this section the troops are required to obey such orders "as they *may have received* from the Governor or any judge of a court of record or the sheriff of the county," and "such further orders as they shall THERE receive (that is upon the spot) from any two of the magistrates or officers mentioned in the first section. It is obvious (1) that these "magistrates or officers" are to be upon the spot, and (2) that two of them must act. Does this authorize *one* of these officers or magistrates, *not* on the spot, to give general orders and to delegate his authority to the military commander.

It may be said that the Statute of 1840 enlarges these powers. How and where? That statute was merely a revision of chapter 12th of the Revised Statutes respecting the manner of *calling out* the troops. It does not purport to alter chapter 129 of the Revised Statutes which prescribes what the troops are to do *when* called out. On the contrary, the 29th section of the Statute of 1840 expressly says, that the troops when called out "shall obey and execute such orders as they may then and there receive, *according to law.*" What law? why, the law which expressly provides for such cases, namely the 129th chapter of the Revised Statutes.

Such, then, is the law. Now, what orders were given to the troops on Friday? They have not been published, and the exact terms of them are not known to me. But in the proclamation of the Mayor, at the head of this article, he says, that, "To secure order throughout the city this day, Major General Edmands and the chief of police, will make such disposition of the respective forces under their commands, as will best promote that important object, AND THEY ARE CLOTHED WITH FULL DISCRETIONARY POWERS TO SUSTAIN THE LAWS." If there be any law upon which such orders are based, I am not able to find it. As to the chief of police, he is an official character not known to the law at all. He is a city officer, appointed for certain duties, by virtue of a city ordinance, and so far as he is concerned, the order may be correct enough; but I do not conceive that coupling him with a Major General gives to the latter any more power *by law*, then he would have if named separately.

The proclamation is peculiar. It is not to disperse any riotous assembly in any particular place. But these persons are "*clothed with full discretionary power*, to secure order *throughout the city.*"

The orders referred to in this proclamation are not only not sanctioned by law, but they are totally opposed to the law. Not to mention the familiar principle, that, when any statute points out a specific course of action, it excludes the conclusion that any other may be taken, it is clear, that the whole purpose and spirit of the law are, that the military shall be throughout subordinate to the civil power. They are to be called upon as armed citizens rather than as soldiers. The law never intended that any mere riotous assembly should subject the whole community to military sway. Besides, the law expressly requires certain measures to be taken before an armed force is ordered to act, although it may be *called out*, and thus be ready to act before these preliminary measures are taken, and then it is called upon, not as an independent power, but "to aid the civil authority in suppressing such violence, and supporting the laws." Now were any of the preliminary measures pointed out in the statutes taken in this city on Friday last? Did the "Mayor and each of the Aldermen go among the people assembled, or as near them as might be with safety, and in the name of the Commonwealth, command all the persons, so assembled, immediately and peaceably to disperse?" Did they then command the assistance of all persons there present, in seizing, arresting and securing in custody, the persons so unlawfully assembled?" Were they mindful of the fact, that if any Mayor, Alderman, &c., "having notice of any such riotous or tumultuous and unlawful assembly," "in the city or town in which he lives, shall neglect or refuse immediately to proceed to such assembly, or as near thereto as he can with safety, or shall omit or neglect to exercise the authority, with which he is invested, &c., he shall be punished by a

fine not exceeding three hundred dollars?" And finally, did "any two or three magistrates or officers" "require the aid of a sufficient number of persons, in arms or otherwise," and then "proceed in such manner as in their judgment shall be expedient forthwith to disperse and suppress the riotous assemhly?" If these gentlemen or any of them were on trial for a misdemeanor, in not conforming to the law, would it be a sufficient defence for them to say, "we did none of these things, but, then, one of us gave to the Major General commanding, and to the Chief of Police, full discretionary powers to sustain the laws of the land?"

But, it may be said, there *was* no riot—there were no "persons unlawfully, riotously or tumultuously assemhled." Indeed! Then the city was put in the keeping of troops in apprehension of a riot and as a measure of precaution. And this, I suppose, is the whole case. Now, I am not questioning the right of the Mayor to call out the troops when a riot is merely threatened. But they cannot *act* until there is some overt act on the other side. They must be held in reserve until the emergency contemplated by law actually occurs. Some men deem it the most convenient and expeditious way of preventing riots to place the city or parts of it under the troops. I beg to say, that it is not the legal way, and, until the law is changed, it is not the proper way. This is the manner of doing things in Europe. There the armed battalion rides down the defenceless multitude, but our laws sanction no such course, until the multitude show by their conduct that the civil arm is too weak for them.

While I am penning these sentences, I notice an account of a speech by the Mayor at the anniversary of the Ancient and Honorable Artillery Company, in which he is reported to have said, that "at a trying crisis he found himself in an anomalous position; he had stood on the quarter-deck of the city ship, and asked himself, Shall I jump overboard, and trust myself to the moral character of sharks, or shall I be the master of my own ship? He determined to keep the helm, and then the haven was reached, the laws executed, and the peace of the city was preserved."

Now, it is precisely because the Mayor did *not* "keep the helm;" it is because he did not stand upon the quarter deck, but gave up the command to one who was not even of the crew, that I hlame him. It is because he undertook to give full discretionary power to another, and that other a military commander, instead of himself retaining the command, that his conduct is open to criticism. But he proceeds to say:

"Had he done otherwise, and blood have flowed in our streets, when he could have prevented it by calling out the military, he should not have been safe himself, and would have merited your condemnation and that of all good citizens"

No one has a right to complain of the Mayor for calling out the military if he deemed it necessary; but allow me to ask, suppose blood had flowed in consequence of the acts of the troops under the orders referred to in his proclamation. Suppose citizens had been shot down, without the command of any two magistrates, or of the governor, sheriff or a court of record, what would have been said then?

What would have been the line of defence of those who had been instrumental in such a deplorable result before the trihunals, where law is administered, and in which ignorance of the law excuseth no man?

It may be said, that discussion is useless now, since the whole thing is over, and unprofitable, since there was no actual injury done. To be sure, a citizen or two received sabre cuts; others were threatened with having their brains blown out; one captain did order, or was about ordering, his company to fire upon the people; a horse or two were killed; people were prevented from going about their ordinary business; the banks and the post office were in effect closed. All these were trifles, perhaps, but you will find it difficult to tell me how much real injury has been inflicted on the public peace; upon that sensitiveness to wrong, that sensibility of the public heart, which feels all the more when it finds no words for utterance. It will he long, I fear, before some of our oldest and best citizens will forget the military display of Friday, the second of June, and the proclamation of the Mayor of Boston.

Again, this matter should be perfectly understood for the sake of the Militia. They are the great arm on which a free people must rest to preserve the public peace in the last extremity. They are of us and with us—composed of our brothers, sons and neighbors. Their interests are identified with our own. The duty they have been called to perform was undoubtedly distasteful. They must obey orders. Discipline is at the foundation of this efficiency. Therefore it is most unjust to place them in a position where they may be called upon to obey orders which are not legal. It is a monstrous wrong to put them where they may be commanded to do acts which may render them personally liable in the legal tribunals.

These remarks are made in no spirit of unkindness to the Mayor. He was placed in a trying position. He undoubtedly acted conscientiously and from a high sense of duty. It is matter of regret, however, that before issuing his orders to the troops and making proclamation to the citizens, he had not called in the aid of the learned and able legal adviser of the city. He might have referred to precedents also. If I am not mistaken, he was himself an efficient city officer, at the time of the Broad street riot, and must have known the fact, if he did not witness it, that the Mayor of that day himself with his Aldermen marched in the front rank of the troops he had ordered out, ready to give upon the spot all necessary orders, and never forsook his position until peace was restored. He might have called to mind the example of the Mayor of Charlestown, who, in a recent riot, or threatened riot of a serious character, himself took command of the troops —following the law in every particular, and by his energy and prudence preventing not only bloodshed, but saved the feelings of the citizens from the slightest mortification or grief.

The recent proceedings are the first instance since the revolution when anything bearing a semblance to martial law has been proclaimed in Boston. Let us hope that they may be the last. P. W. C.

THE CIVIL AND THE MILITARY POWER.

The writer of the article in the Advertiser of Friday last, had no expectation that his remarks would excite so much attention as they appear to have done. He attributes the fact to the importance of the subject, and to the deep interest which exists in the community, rather than to anything peculiar in the communication itself. He would be glad, also, to believe that the misconstruction of his views and the personal strictures to which he has been subjected, arise rather from a want of clearness on his own part, than from any design on the part of those who have undertaken in public and in private to criticise his remarks. The subject is one of great importance. It affects the lives of our citizens, and their reputation, which is more than life, and the writer supposed that a careful examination and discussion of the legal points involved would not be useless or unacceptable, if it were fairly done, and with the calmness which is always requisite to the proper investigation of legal questions, and which seems peculiarly desirable in the present excited state of the public mind. If he failed in this, it was not for the want of good intentions; if he mistook the law, no one will rejoice more than he to be corrected; for the object here should be truth, and truth alone

Two articles in answer have appeared in the papers of Wednesday, one in the Courier and one in the Post. The character of the article in the Courier is such; its misrepresentations of facts, its perversions of law, apparently wilful, are so many and so obvious, I am advised that no answer is necessary for my own sake or for the cause of truth. There is a single point, however, to which it may he best to call attention, as a specimen of the style and manner of a writer, who signs his communication "A Counsellor," and who avers that he is a lawyer. The writer says:

"In another point, the ex-Solicitor is also without law.—He insists that the *Sheriff* should have been present, and that the action of the Mayor was invalid because the Sheriff of the county was not on the ground.

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"But the *Sheriff* of Suffolk county was there, Mr. Chandler. Marshal Freeman was the Sheriff of Suffolk in every step he took, from the arrest of Burns to his delivery on board of the cutter. This you have overlooked. Please turn to the act of Congress of February 28, 1795, section 9, and read thus:—

The Marshals of the several districts and their Deputies, *shall have the same powers in executing the laws of the United States, as Sheriffs and their Deputies* in the several states have by law in executing the laws of the respective states.

"Thus it is seen that Marshal Freeman and his Deputies in the process touching the fugitive Burns, had all the powers of Sheriff Eveleth and his deputies in executing a state process.

"Consequently, the concurrent act of the Mayor and Marshal in 'aiding the civil authority in suppressing violence and supporting the laws,' was the very act which Mr. Chandler insists upon, namely the act of two magistrates or officers, as required by chapter 129 of Revised Statutes."

In another place he says:—

"Such was the state of things when Mayor Smith, at the request of the Marshal, issued his precept to Major General Edmands to order his command to appear, and "to *aid the civil authority in suppressing such violence and supporting the laws.*"

From all this it would appear not only that the troops were called out by request of the United States Marshal, but that they were actually under his command, and rightfully under his command. If this writer is to be credited, his statements settle a matter of fact in relation to which there has been considerable inquiry and debate. It has been asserted and denied, that the Mayor, in calling out the militia, did it solely for the purpose of preserving the peace and of enforcing the laws of this State, and not for the mere purpose of aiding the United States Marshal in removing a fugitive slave. It now appears, that he was acting at the request of, and in conjunction with, the Marshal, in enforcing a law of the United States. But why did the latter apply to the Mayor at all? According to this writer, the Marshal having the same powers as the Sheriff, may, in certain contingencies, call out the volunteer militia himself, and take command of them, whenever, in his judgment, a riot is threatened. It surely cannot be necessary or profitable to enter into an argument with one who seriously maintains that the Act of February 28, 1795, sec. 9, actually confers upon United States Marshals in Massachusetts, all the rights and powers which Sheriffs have by virtue of chapter 129 of the Revised Statutes and of the Act of the Legislature of Massachusetts of 1840, chapter 92.

The article in the Morning Post is of a different character. It is carefully prepared, and is entitled to respectful attention. This writer also deems it proper to indulge in personalities, which, on reflection, he can hardly fail to consider as unjust in themselves, adding no strength to the argument, and detracting from the general fairness of his communication. I shall not imitate him in this respect, nor make any personal allusions, conceiving them to be entirely unnecessary in the present discussion, and in poor taste at any time.

The writer makes it matter of complaint that I did not know what the precise orders of the Mayor were, and he gravely remarks that it is seldom that a lawyer undertakes to give an opinion without a knowledge of the facts to which he applies his law. It is true, that I did not and do not know what the precise orders which the Mayor gave were, nor am I aware that this writer is any better informed even now. The public have not been favored with them; but in the absence of the very words, we may safely rely on what the Mayor said the orders were in his proclamation. In that document he says, "That to secure order throughout the city this day, Major General Edmands and the Chief of Police will make such disposition of the respective forces under their commands, as will best promote that important object, and they are clothed with full discretionary powers to sustain the laws of the land." The Mayor thus declared that the officials were clothed "with full discretionary powers to sustain the laws of the land." The precise orders were not criticised, but the substance, or what the Mayor said was the substance of them. That these orders were issued by the Mayor, and that he is responsible for them was fairly to be inferred from his proclamation, and is now admitted, with the qualification that he acted in conjunction with one Alderman, whose name, however, has never been given to the public, so far as I know.

This writer then remarks upon the necessity of calling out the militia at all, and coolly says, that the writer in the Advertiser "doubted the expediency of the call," and then contrasts with my doubts the opinion of other persons. This is simply untrue.—The writer will seek in vain in the Advertiser article for any opinion of this sort, whatever my private impression may be. On the contrary, there seemed to be no utility in debating this question, because, if there were any error, it was an error of judgment, involving no principle of importance, and to enter upon this field of discussion might have given the whole article the appearance of a personal attack on the Mayor, which was not intended nor desirable.

There are many other points raised in this communication, with some of which I should not disagree, but most of them seem irrelevant to the main subject at issue, and are no answer to the interpretation of the law which I have given. I therefore beg to re-state a few of the legal points.

By the act of 1840, whenever there is a riot or a threatened riot, the Mayor of any city, and also certain other magistrates, may severally issue their precept to any commanding officer of any division, brigade, regiment, battalion or corps, to order his command, or any part thereof, to appear at a time and place specified "to aid the civil authority in suppressing such violence, and supporting the laws." (*Sec.* 27.) Such troops shall appear at the time and place appointed, armed and equipped, with ammunition, as for inspection of arms, and shall obey and execute such orders as they may then and there receive, *according to law.* (*Sec.* 29.) So much for the statute of 1840, which simply provides for calling out the militia, and which says that they are to obey such orders as they may receive "according to law."

To ascertain what orders *are* "according to law," we must look into the Revised Statutes, chapter 129, which contains most ample and specific provisions of all the proceedings to be taken in cases of riots. The first section provides, that Mayors and Aldermen of cities, and certain other magistrates named, "shall go among the persons assembled, or as near them as may be with safety," and command them to disperse. If they do not immediately disperse, these magistrates, or any of them, are to command the assistance of all persons present, "in seizing, arresting and securing in custody the persons so unlawfully assembled." The next section (§2) provides for the punishment of persons for refusing assistance and for refusing to disperse. The next section (§3) provides for the punishment of Mayors, &c., who neglect or refuse to perform the duties required of them by the preceding sections. The next section (§4) provides that when the rioters "who have been commanded to disperse, as before provided, shall refuse or neglect to disperse, without unnecessary delay, any two of the magistrates or officers before mentioned, may require the aid of a sufficient number of persons in arms or otherwise, as may be necessary, and shall proceed, in such manner as in their judgment shall be expedient to disperse and suppress such unlawful, riotous, or tumultuous assembly."

The militia having been ordered out are to obey orders according to law. The foregoing *is* the law, and how can any man of ordinary comprehension, who really desires to understand the subject, fail to see, that, before any two of the magistrates named can proceed to use an armed force, they must first have ordered the rioters to disperse, and must have taken every means as civil officers to produce this result, before resorting to an armed force? The provision is express, that this alternative is to be resorted to in the case of rioters, "who have been commanded to disperse as before provided." And yet the writer in the Post indulges in poor pleasantries, because I laid down this proposition in the very language of the law. What must be thought of the statement of this writer, that "the statute is directory to the Mayor as to his duty—so it is to others as to theirs—but the performance of that duty by him or them is not a condition precedent to his authority to

call upon the militia or give them orders." That is to say, where the law says that the Mayor, &c. *shall* "go among the people assembled" and command them to disperse, and shall call upon all good citizens to assist; and when the law further says that when the rioters have been so commanded to disperse and refuse to do it, *then* the Mayor or any magistrate "may require the aid of a sufficient number of persons in arms or otherwise;" all this is merely "directory;" the magistrates may do it or not; they *ought* to do it, but if they do not, still, they may call in an armed force.

If any two of the magistrates referred to shall undertake to act on these suggestions, and call in an armed force, and order them to fire upon a mob, before such magistrates have complied with the plain requirements of the law—requirements by the way which are eminently humane, just, and reasonable,—they will find their legal knowledge enlarged by a personal experience which will be likely to make a lasting impression on their minds.

But the fifth section! This is the general storehouse of power to disperse rioters and to fire into mobs without warning. In regard to this fifth section of the 129th chapter of the Revised Statutes, I formerly remarked, that there is a doubt whether it applies to cases of troops called out by a Mayor at all. Whether it does or not, it by no means alters or affects the fourth section, just quoted. It is in entire harmony with that section. The preceding sections of the chapter prescribe the duties of magistrates in case of ordinary riots, mayors and aldermen, selectmen, justices of the peace, sheriffs and deputy sheriffs. The fifth section includes such riots, and also those of a more grave character, amounting to civil war, and it points out the duties of the troops to obey the orders they may have received from the Commander-in-chief, a Judge of a Court of Record, or the Sheriff of the County; it then says the troops shall "obey such further orders as they may receive from any two of the magistrates or officers, mentioned in the first section." Now, the preceding section had provided *what* orders these magistrates may give, *when* they may give them, and under precisely what circumstances, namely,—after they have gone among the rioters, &c., then they may disperse them by an armed force. The fifth section does not alter or change the fourth, in any respect. "Such armed force," it says, "when they shall arrive at the place of such unlawful, riotous or tumultuous assembly, shall obey such orders for suppressing the riot or tumult and for dispersing and arresting all the persons, who are committing any of the said offences, as they *may have* received from the Governor, or from any judge of a court of record, or the sheriff of the county, and also such *further orders*, as they shall *there* receive from any two of the magistrates mentioned in the first section." Now, the magistrates mentioned in the first section are Mayors and Aldermen of cities, Selectmen of towns, Justices of the Peace, Sheriffs, and Deputy Sheriffs. It is obvious that this section gives no different direction as to the *manner* of using an armed force by two magistrates. By the fourth section, the magistrates may call in the aid of an armed force in the last resort and after they have used all other means pointed out. By the fifth section they may also use an armed force, but they are still limited as to time and manner by the fourth section.

This writer seems somewhat disturbed, almost alarmed, at the idea that the military are only to be called into actual service in the last resort, or in other words, until a riot actually occurs.

"How inadequate our protection—not to say how absurd would be a law, for instance, that the civil authorities must wait till magistrates and judges had been driven from their seats—till prisoners had been rescued—till crime had been committed—till the blood of citizens flownd in the streets, and the civil authorities had been overpowered by lawless men—till the mischief had all been done, and then, *in the last resort*, when aid was unavailing, issue a precept to call out the militia! No; the law requires no such insane course."

Softly. One would suppose from these words—and they are nothing more—that we have no other means of keeping the peace than the militia. Where are all of our peace officers? Our mayors and aldermen—our justices of the peace—sheriffs—constables—police officers, and last, but by no means least, our CITIZENS, our law-abiding, peaceable and christian citizens? I yield to no man in respect for the militia. I admit in the fullest extent their usefulness. I admire their valor. I yield them praise for every good quality of citizen soldiery. But I confess the remarks of this writer, and occasionally the tone of private conversation not a little disturb me. One would suppose, that the milita force is our only force; that we should all be in danger of having our throats cut were it not for the troops. The sphere is sometimes like that of Austria or Naples. Men talk of calling out the troops as if it were, or is to be, an every-day occurrence. Some people affect to think that the most expeditious, the safest and the best way of keeping the peace, in a community like ours, is by an immediate resort to the military arm, and they speak of placing the city under martial law as a matter not particularly objectionable. They never feel safe except under the influence of brimstone and bayonets. Now, I beg to say, with all possible respect for the militia, that, in all ordinary cases, and in almost all cases, our reliance for safety and protection is upon the machinery provided by the law—that peaceful, quiet system which makes but little noise, and attracts but little notice, but which is, upon the whole, the most secure expeditious and energetic. Great military commanders, able generals, like great statesmen, have always so regarded it, and are ready to admit, that, in times of domestic commotion, the military should be subordinate to, and behind the civil power, and as much removed from the puhlic eye as possible. We all remember the chartist demonstration in London, in 1848, when the kingdom was shaken to its centre, and when it was asserted that 200,000 men were to march through London and take up their station on this new Runnymede. The London Times of April 11, 1848, after mentioning in detail the immense military preparations made in London, proceeds to say:

These formidable preparations, so carefully made by the Executive, would of themselves have been sufficient to suppress with ease a far more extensive and serious movement than that of yesterday proved in the result. But Government was content to rest the cause of public order more upon the truncheon of the special constable and the policeman than on the bayonet and musket of the soldier. *The military, in accordance with the well-known tactics of the Duke of Wellington, remained invisible throughout the day, and no one would have dreamt that within hail almost of the spot where the Chartist demonstration took place there lay in ambush a little army of disciplined troops completely equipped and ready for action.* The special constables, however, mustered in great force; they conducted themselves in a most admirable and efficient manner.—The total number of special constables in the metropolis is now computed at a moderate calculation to be not less than 150,000, and the zeal with which they have crowded to be sworn in, and to qualify themselves for wielding the truncheon, proves in a most remarkable and gratifying way how strongly the love of order and respect for property are cherished in London.

Is the "love of order and respect for property" any less strongly cherished in Boston than in London? Again:—

The dexterous prudence that hid from the arena the very sight of arms, so that not a soldier, not a pensioner, scarce even a policeman, was seen, will greatly distinguish this event from the grand military dramas which have recently ended in the catastrophe of States or of Kings. For this rare result we have to thank the man whose greatest boast it is to have learnt the skill of peace in an experience of war.—It is the mode and manner of this day's decision which imparts to it an instructive and final character.

The principle acted upon by the greatest military commander of the age, in a most perilous emergency, is precisely the one adopted in our laws, and the one that should be acted upon by our magistrates. The military is to be subordinate to the civil power.—They may be called out, that is, ordered to appear at specified times and places, armed and equipped.—After this they may be called up by two Magistrates, by virtue of the fourth section of the Revised Statutes, to disperse a mob, after the other means have been taken; or by the fifth section, "such armed force when they shall arrive *at the place of such unlawful, riotous, and tumultuous assembly*, shall obey such orders, &c." Both of these sections clearly contemplate

an actual riot, that is, such an assembly as the law calls a riot. The military are bound to come out on a *threatened* riot, and they are bound to obey orders in dispersing an *actual* riot. They are not bound, nor authorized, to take the general supervision of affairs, but are themselves to act under, and in aid of, the civil magistrate.

This is the common sense view of the whole matter. It was never intended that the military should be put into actual service except in extreme cases. They are not policemen. They ought not to be called upon in every trifling case of apprehended resistance to law, and when they are called out, they should not be put into active service until the legal emergency arises, namely, an actual riotous assembly. On the contrary, the law expressly provides that Mayors and Aldermen of cities, and selectmen of towns, may appoint as many extra policemen as may be necessary for any special emergency. Then, when a riot does actually occur, the law enjoins it upon Magistrates to go among the crowd, to order them to disperse, and to call on good citizens to arrest the disorderly. Failing all these measures, then the militia who may have been previously ordered out, are to be brought "to the place of such riotous assembly" to obey the orders of the Magistrates.

But it is said, suppose the rioters are in different places, the Mayor cannot be everywhere at once.—Very true he may not, and the law provides for this, and says that *any* two of the Magistrates may give orders. Again, it is asked whether the Magistrates are to give the orders to the soldiers directly? I am not disposed to question the result at which the writer in the Post arrives, namely, that the Magistrates "should communicate with the commanding officer of the troops, and not with the privates or corporals."

The writer in the Post says, "the Governor, at the state house, apprehending a riot at Worcester, may order troops there and command them what to do in case of riot when they get there, though at the time of giving the order, Worcester is as quiet as a graveyard." Perhaps he may, and perhaps the troops may obey the orders given as this writer says *in case of riot*; but suppose there is no riot when the troops "get there"; suppose Worcester is *then* as quiet as a graveyard, would the Governor have a right to delegate to the Major General commanding, "full discretionary power to preserve the peace throughout the city of Worcester?"

This writer also contends that the Act of 1840, intended to enlarge the powers of Mayors of cities—to confer on them the same powers that were previously conferred on the Governor, Sheriffs and Courts of Record This assertion is entirely gratuitous. The Act of 1840 in no respect enlarges the powers of Mayors, except in authorizing them to call out the militia. What they are to do after they are ordered out rests on the law as it has stood for many years.

Leaving now this discussion of the general subject, let us consider the actual occurrences in this city, and particularly that one which was the main subject of the first article in the Advertiser, namely, the conduct of the Mayor in conjunction with (as it now appears) one Alderman, in undertaking to delegate certain powers to General Edmands.

What then was done in this city? The Mayor called out the troops on account of a threatened riot, and ordered them to appear on Boston Common. The precept was in the following words:—

COMMONWEALTH OF MASSACHUSETTS.

SUFFOLK ss Boston, May 31st, 1854.

To Major General Edmands, commanding the first division of Mass Vol. Militia.

[L.S.] Whereas it has been made to appear to me JEROME V. C. SMITH, Mayor of the City of Boston, that there is threatened a tumult, riot and mob of a body of men acting together by force, with intent to offer violence to persons and property, and by force and violence to break and resist the laws of this Commonwealth in the said County of Suffolk, and that *Military Force* is necessary to aid the civil authorities in suppressing the same.

Now, therefore, I command you that you cause the 1st Brigade and the Independent Company of Cadets to be detailed from your command, and to parade on Boston Common on the second day of June next, at 9 o'clock, A. M. armed and equipped, and with ammunition according to law—then and there to obey such orders as may be given you according to law.

Hereof fail not at your peril, and have you then there this warrant, with your doings returned hereon.

Witness my hand and the seal of the City of Boston, this thirty-first day of May, A. D. 1854

J. V. C. SMITH, Mayor.

So far, so good. The troops were ordered to appear on Boston Common on account of a threatened riot. The next thing we have is a proclamation by the Mayor in which he informs the citizens of Boston, to whom it is addressed, that "To secure order throughout the city this day, Major General Edmands and the Chief of Police will make such disposition of the respective forces under their commands, as will best promote that important object, and they are clothed with full discretionary powers to sustain the laws of the land."

Now, the great point is as to the orders which the Mayor here says had been given to General Edmands, and which it now appears were given to him by the Mayor and one alderman. Were they legal? Had the Mayor of this city any legal right to give Major General Edmands full discretionary power to sustain the laws of theland throughout the city. Admit, if you please, and for the sake of the argument, that he could delegate to General Edmands discretionary powers in case of a riot to disperse the mob, had he any power to issue such orders as this proclamation covered, when there was no riot at all, but only a threatened riot? Could he put the whole city under Gen. Edmands? Were the well ordered and well disposed citizens to be placed under the military as well as the ill disposed? The Mayor is the chief executive officer of the city. He has sworn to preserve the peace, to enforce the laws—can he throw up his power at every threatened riot and give the whole city over to a military commander and his troops? Where does he get this power? What law gives it to him? How long may he exercise it? If he may do it for a day, why not for a month, if he deems it necessary, and thus violate the whole spirit of our laws, and the genius of our institutions by placing the military above the civil power?

The writer in the Post has failed to meet this question. Does he mean to defend the act of the Mayor and of a single Alderman, in giving the orders referred to in the proclamation, and of General Edmands in receiving and undertaking to act on any such orders? Is there any law for it? If there be, I am unable to find it. On the contrary, I believe the whole thing was illegal and indefensible on any principles of law or propriety. And, after a careful re-examination of the subject, I do not hesitate to repeat that "these orders were not only not sanctioned by law, but that they were totally opposed to the law," and the Major General, so far as he undertook to act under them, was in an illegal position, and placed the men under his command in a peril, of which both they and the public have a right to make serious complaint. The whole thing was a palpable violation of a great principle, and one which ought to be met with decided condemnation from all good citizens, or else,

'Twill be recorded for a precedent;
And many an error, by the same example,
Will rush into the State.

P. W. C.

THE MILITARY AND CIVIL POWER. Our neighbor of the Daily Advertiser has fallen into a strange misapprehension in supposing that we regard the matter now in controversy respecting the Mayor and the military as "one of little importance." On the contrary, we have taken especial pains to impress upon our readers the very great importance of making as clear as possible the powers, responsibilities and public duties of the chief magistrate of a city: and we have referred by way of illustration to instances of great and deplorable disasters which have arisen from the misunderstanding or neglect of these duties. As regards the legal points at issue, we call the attention of our readers to the communication on this subject, which will be found in another column.

See page 24

Courier

To the Editors of the Boston Daily Advertiser:—

Observing the valuable article in your paper of last week, on "*The Civil and Military Power*," I am induced to contribute in aid of the discussion, some testimony from an experienced military authority, drawn out in an actual and disastrous case of popular tumult.

The point of chief interest in the discussion—or *one* of the points—is to determine the precise position which the civil magistrate should hold in reference to the actual exercise of military force, and *who* should give the "orders" to the troops on the ground. There are expressions in an article in one of your city papers, to the effect that the civil magistrate should "give the *order to fire*." There are references in the article in your own paper, to former occurrences, which convey the idea that the civil magistrate is to give, in such a case, actual military orders—such as the allusion to the Broad street riot, where it is said that the Mayor "*marched in the front rank* of the troops, *ready to give* upon the spot *all* the necessary *orders*," and the case of the Mayor of Charlestown, who "himself *took command* of the troops,"

I do not understand the writer in your paper, as intending to vouch for the exact propriety of what is literally stated by these expressions, still less that he would justify the idea of the other article referred to, that the civil magistrate should give the actual "order to fire."

It is very evident that the civil officer ought not to assume an actual military command, or give any strictly military order. He must be presumed not to know what precise military movement, position or action is best suited to meet the exigencies of the case. He is bound to direct and command the civil force, until its efficiency is exhausted. Then, the military force being called into action, its movements and action must be directed by military skill and command. The military officer may not see a necessity to order his men to "fire." He may prefer to charge with the bayonet, or he may accomplish the object of checking the mob, merely by placing his men in some skilful and effective position. Which of these or other courses to adopt, are military questions, beyond the competency, and therefore beyond the duty of the civil magistrate.

The authority which I wished to adduce, is that of Lieut. Col. Hogarth of the 26th Regiment of the British army, on the occasion of the fatal tumult at Montreal, twelve months ago. There, the very question arose, *who* gave the order to fire? and whether any order to that effect was *rightfully* given? The Mayor was on the spot, in the midst of the force, and the firing was in all probability, as needless and ill-timed as it was disastrous. The strict severity with which these questions were investigated and discussed both in the civil and military courts of Montreal, even to the extent of a capital indictment of *the Mayor*, affords a valuable lesson for our tribunals, and for our officers both of civil and military grade.

Col. Hogarth, in his testimony before the Coroner's Jury states:

"I have been 36 years in the army. The regulations observed in the army, when the troops are called out to repress a disturbance, are these:—When a body of troops accompanies a magistrate, and when the magistrate finds the civil power is at an end, he then *hands his power over* to the military officer, saying, 'I leave it in your hands to suppress this disturbance, as best you may.' The magistrate remains alongside of the officer, close by him, and when the officer finds it absolutely necessary to resort to firing, he will only fire with one file at a time,—that is, from two men. If that does not do, he repeats the fire again with another file, or two files, as the case may be, not resorting to harsh measures, as long as quiet means will do. If the files have no effect, he then fires a volley from a section, which should not consist of more than five files. So he goes from little to more, till his end is accomplished. Decidedly, in all cases, the soldiers are to take orders, not from the magistrate, but from the officer in command. I myself gave no orders to fire. I had no idea of it at the time. [He was on the spot, in command of a hundred soldiers, with other officers.] The order to fire should have been issued by me. None of the officers have a right to give the order to fire without my leave. I doubt, whether they are entitled to do it, even with my leave, while I am present. I cannot account for the troops having fired without my orders. * * * The troops were ordered to take no orders but from me. * * * I had previously explained to the Mayor, that the order for firing must proceed from myself."

Lieut. Quartley, of the same regiment, testified explicitly that the Mayor gave the order to fire.

"He (the Mayor) turned towards the men, looking towards the right of the company, and shouted—'Fire in the Queen's name!—Fire!' I immediately called out for the men to cease firing. After it had ceased, I ordered the men not to fire again, and blamed them in different parts of the company for having fired without order from an officer. One said it was high time to fire, as a bullet had passed close to his head; another, that he had seen officers obey the orders of the Mayor, and thought they should fire when the Mayor ordered them. Our fire checked the crowd; *perhaps they might have been dispersed with a charge of bayonets.*"

Captain Cameron, another officer of the military force, describing the particular manner in which the troops were led to the scene of the tumult, testified:—

"We marched off, the Mayor still continuing to call upon us to run, as he called it, as we little knew what was going on. I asked Col. Hogarth if I should order the men to double. His answer was, No! keep your men cool, and see that no one obeys any order except mine. On two or three occasions, the Mayor again attempted to give words of command to the men, and on each occasion Col. Hogarth invariably repeated the same words to the troops, 'you will take no orders except from me.'"

As the firing was in part from Captain Cameron's party, an attempt appears to have been made to show that he ordered it, and requested the Mayor's authority to order it. To which he replies:—

"I declare here on my solemn oath, that I never asked the Mayor whether I should fire. In fact, it would have been impossible for me to have been guilty of so gross a breach of discipline."

The bearing of these extracts from the testimony of high military authority, upon the incidents recently occurring in your city, and upon the question of the relative duties of the civil and the military power, is sufficiently obvious to render further comment unnecessary. They may be of some service in correcting the popular ideas upon a matter of so much importance.

There is one other sentence in the testimony of Col. Hogarth, which it may be of practical utility to reproduce. It is not only of consequence, that the order to fire should be given at the proper time, by the proper officer, but that an equally competent authority should know when and how to cause the firing to cease, Col. Hogarth says:—

"There was a slur cast upon my character as a military officer, by one of the witnesses, on account of the slow way, that I caused the firing to cease. He little knew how difficult a matter it is to cause troops to cease firing, when once they begin. It is only by the bugle that in can be done. It is out of the power of a man's voice. The whole fire did not last over a few seconds. Before that time, the bugle had sounded. My hugler, in compliance with my orders, sounded immediately to make them cease firing."

The exact experience and skill required for such an occasion may well be learned by our citizen soldiery, from competent officers of a regular army.

P. B.

8.

DAILY ADVERTISER.

BOSTON:

MONDAY MORNING, JUNE 19, 1854.

Boston Music Hall Association.—At the annual meeting of the share holders of this corporation, held on Wednesday last, the old Board of Directors were elected. From the Treasurer's report for the whole period since the hall was opened (eighteen months), we take the following leading items:—

The whole cost of land, building and furniture has been $153,904. To meet this a debt was originally incurred of $43,500, which is now reduced to $40,000.

The total receipts for eighteen months have been:

For Public Meetings, Lectures, &c.	$4,251 67
Concerts and Oratories	11,496 74
Rev. Mr. Parker's Society	1,875 00
Interest on loans	53 71
Whole income	$17,677 12

The expenses for the same period, chargeable to income, and including insurance. gas, fuel, taxes. interest on debt (3338), rent of organ, salaries, &c., amount to $10,740 81:

Which leaves a net income of $6,936 31, or $4,624 21 per annum, and if divided would give $4 33 per share per annum, on the present number of shares; the par value of a share being $100.

We understand that the stock vote upon terminating the lease of the hall to the congregation of Mr. Theodore Parker, which has been alluded to in various journals, was thus, aye, 260 shares; nay, 290 shares, thus *leaving the matter in the hands of the Directors* by a majority of 30 shares.

The resignations of Charles P. Curtis, Esq., as President and Director, and of Chas. H. Mills, Esq., as Director, succeeded this vote.

The whole number of shares is 1066.

VENING TRANSCRIPT..

Boston Music Hall—Annual Meeting. "*Audi alteram partem.*" Mr. Editor: A paragraph in yesterday's Daily Advertiser, copied into last evening's Transcript, being, from the *form* of it, likely to mislead, I will ask the favor of a small space in your columns to give a succint but *full* statement of facts. The statement in the Advertiser italicises this line: "*Thus leaving the matter in the hands of the Directors,* by a majority of 30 shares"—for what purpose is best known to the writer of it. It is in no sense a contradiction of any statement I have seen in any other paper.

The order offered at the meeting (a stockholders meeting), was: "That the Directors be instructed to terminate the lease of the 28th Congregational Society as soon as it can legally be done, and not to renew it." The party introducing it held proxies for 150 of the 261 shares brought to support it; 100 of these the property of a gentleman in Europe, who of course did not know of their being so used. The remaining 111 shares were held by two Directors and one stockholder. Arrangements were made earlier than the 8th inst. to carry this measure, of which I have documentary proof. To the best of my belief, no stockholder, other than the above mentioned four, knew of any such intended movement until the very day of the meeting.

The treasurer's report having been printed and distributed before the meeting, and no business of importance anticipated, the meeting was a small one—only 12 stockholders being present. Of these, six spoke against the motion and two for it. Of the 291 votes against it, 280 were cast *designedly*,, and by seven stockholders. Of the 261 for it, as will be seen, 100 were furnished by an agent of a stockholder in Europe. As far, then, as the votes were an expression of the wishes and intentions of the stockholders,—161 were cast for the order by four stockholders, and 280 against it by seven stockholders—and this with ample preparation on the one side and none on the other. The matter *was always in the hands of the Directors*—the object of the order was *to take it out.*

The result indicates the sentiments of the Directors, and the determination to exclude from their councils all political, sectarian, or personal considerations, and to lease the Hall to all persons and societies who will give satisfactory security for the rent, and, if required, for the safety and proper use of the building and furniture.

A Director.

The Luzerne Union.

PUBLISHED BY S. S. WINCHESTER & P. K. BARGER.

WILKES-BARRE:

WEDNESDAY, JUNE 7, 1854.

Theo: F. Parker & Co.

There is but one step between that "liberty of speech" which is the boast of this Republic, and that fanaticism that amounts to absolute treason. This sentiment is illustrated when we look at the history of the late Fugitive Slave case in Boston. The Nebraska Bill has passed, the Union is in no danger by its passage, and the sober, thinking men of the North are satisfied with the result. . A few fanatics, however, paid hirelings of British vilany as we are almost led to suppose, have become exasperated by defeat, and in their extreme anxiety to array the North against the South, regardless of consequences, have found a fruitful theme in this slave case, to utter and publish their miserable, hypocritical philanthropy. With the circumstances attending the case most of our readers are familiar, but have they considered the matter of sufficient importance to weigh carefully the vile and infamous sentiments poured forth by men who should know better, men whose position in society, give them no inconsiderable influence. Have they refleeted upon the nature and tendency of such sentiments. Theodore F. Parker, a *Reverend* gentleman who pretends that he was influenced by the Spirit of Truth to preach that Gospel, which is the Gospel of peace, who claims that he was commissioned by Heaven, to teach men the doctrines and life of that meek Saviour, who when he was *crucified* prayed for his murderers, this burlesque upon the character of *christian minister*, has found an opportunity in this Boston Slave case of exhibiting his cloven foot. Presuming upon his profession, it is with impunity he can incite

an infuriated mob to scenes of murder and bloodshed!. When asked to subscribe "material aid," to purchase Burns, he says that all he can subscribe is "brains and bullets." This is characteristic, just what might be expected. He had rather hire poor Burns at ten cents per day, and then defraud him out of his wages, than subscribe one cent for his purchase. He has no money, but he has "brains," to use in his fanaticism to fasten the chain tighter upon the arm of the slave, "brains," to spread anarchy and bloodshed over the land if he can, "brains," to excite a drunken mob to murder and violence and to disgrace his holy profession! God deliver us from the possession of such "brains." But more than this, he has "bullets" to send home to the hearts of those who are charged with the enforcement of the laws of the land under which his *Reverence* is protected in his life, property and limb, "bullets" to place in the hands of a besotted mob, to shoot down United States officers in the discharge of their sworn duty, and who are endeavoring to enforce the laws of the land. This is a beautiful specimen of a *christian* minister!! If the voice of Andrew Jackson could sound in the ears of President Pierce, it would say to him, cause this clerical traitor to be arrested, strip from his shoulders the robe he has disgraced, and consign him to a felons dungeon to answer the charge of treason and outraged morality. His treasonable speeches are enough to wake into life the dry bones of the old Hero of the Hermitage. Be the Fugitive Slave Law right or wrong, in no view of the case is such conduct to be countenanced. We doubt the philanthropy, honesty or sanity of the man who urges forcible resistance to the Fugitive Slave law. We love our country, and we respect its laws, we love the christian religion, and its honest ministers; but we detest the hypocrite, under a philanthropic garb preaching discord and murder, be he christian minister, or be he devil. We love the man who dares express his *opinions* openly and fearlessly, but we would consign to the gallows, the man who uses forcible resistance to the laws, passed by the majority, and satisfactory to the great body of the people. We have but one desire in reference to this man Theo: F. Parker, which is that the respectable religious denomination of which he is so disgraceful a member, will deprive him of the privilege in the future of disgracing their name and calling, by declaring him unfit to be a preacher of the Gospel, for in that case, he would stand in his true colors, being only a political factionist and demagogue, only fit to preach treason and violence to a besotted and fanatical mob. The Government has reason to rejoice, that in Boston there are true men, worthy of their fathers, who are attached to the Union and its constitution, loving its happiness and aiding in its prosperity, and this even amid the influence of Parker, Giddings, Wendell Philips, & Co., and if these men are dissatisfied with the laws of this Union, the sooner they put their carcases among the Grebo's of Africa, the better it will it be for the peace of society and the welfare of the Union. We have no hesitation in saying that the injury inflicted upon this Government by all the Galphinites and Gardnerites, since the days of the Revolution, are not to be compared with the evil influences of one of Theo: Parker's insane speeches. We had rather have a thousand leeches sucking at the Public Treasury, than one wolf in sheep's clothing, preaching under the name of benevolence, anarchy, disunion and discord. Truly, the English Government need no better emissaries among us to further their vilanous schemes than Parker, Philips *et id omne genus*.

Boston Slave Case.

If there was anything wanting to convince the honest mind of the falsity, the vicious and anti republican tendency of the Whig-abolition doctrine of our day, we feel it to be abundantly supplied in the history of the late riot at Boston. The band of incendiaries, of that city who under the pretence of obeying the commands of a higher law, and carrying out, (falsely called) christian principles, have been guilty of creating a civil insurrection and murdering a United States officer while in the discharge of his sworn duties. A colored man was arrested as a fugitive slave, and before he had a hearing and his true condition established, a public meeting was called, the act of Congress requiring fugitives to be delivered up was denounced as a usurpation, and the meeting was advised to openly resist it. Under this wicked and illegal counsel a mob attacked the Court House, where the colored man was taken for security until his case should be heard, and in the defence which the officers of the law made to this violent attempt at rescue, one of the officers was killed. The city authorities immediately took measures to preserve the public peace and assist the proper execution of the laws, by calling out the military. This put a check to the operations of the lawless, and on Friday last the United States Commissioner surrendered the fugitive slave Burns to his master. He was immediately conveyed on board a revenue cutter, which without delay set sail for Norfolk. Our account of the proceedings discloses a singular spectacle, and one which the people of Boston will long remember. The militia lined the street from the Court House to the place of embarkation, where fifty armed policemen were stationed, and the fugitive was escorted by one hundred and forty-five regular troops, including a detachment of artillery with a nine-pounder loaded with grapeshot. Business was generally suspended, and many of the buildings were draped with black. An immense throng assembled in the streets, which greeted the military with groans and hisses but with the exception of several trifling collisions incidental to all large gatherings, there was no violent exhibition of the deep and intense feeling that evi-

dently prevailed. The law has been vindicated, the treasonable designs of the abolitionists have been again thwarted, order preserved, and we sincerely hope the example will not be lost sight of wherever rebellion finds an advocate.

In the meanwhile, somebody has incurred a fearful responsibility in counselling resistance to the authority of the law. In this country, above all others, law should be predominant, as law is the sovereignty of the people. It is the expression of the popular will, and as our government is based upon the absolute rule of the majority, or greater number, any resistance to the law is an attempt on the part of the minority or few, by revolution, to overthrow the fundamental principle upon which the government is based.

Such an audacious attempt to subvert the authority of the law, it is easy to perceive, would, if successful, lead to civil war, anarchy, and all the attendant horrors of intestine commotion, such as we see Mexico and other southern countries, republics only in name, continually convulsed with. Whatever cause may exist for riot and revolution in countries where the principle of sovereignty is less universal than in this, violence never can be the rightful remedy, here, where the laws, through the people's representatives, are of the people's own making, and those who execute them are of the people's own choosing. The only legal means of getting rid of any statute obnoxious to a minority, is to agitate its repeal, until the justice of a change is generally recognized, and those who constitute the minority, by accession to their numbers, become a majority. Until this change is effected, the few must submit to the decision of the many, or republican government cannot exist. It would be nothing but a rope of sand, which any dissatisfied persons might at any moment pull to pieces. The government of the United States is not a government of any particular section of the Union; it is a government established, under Constitutional guarantees, of the *whole* people, and as long as it subserves the good of the greatest number, it fulfils the end for which it was created. Those who live under the protection of its laws have either to obey them or leave the country for one where they can have a larger license. If they undertake to resist the government in the lawful exercise of the authority delegated to it, they deserve to be considered and should receive the punishment of traitors to constitutional liberty.

From the New Bedford Mercury.

Mr. Curtis's Second.—In an old Italian poem—a burlesque of the Orlando Inamorato—it is related, that a certain truculent knight had the misfortune to lose his head, but, as the worthy man did not perceive what had happened to him, he went on fighting in the most preposterous manner. We do not say that Mr. Curtis is in an absolutely acephalous condition, but we must at least declare, that there is no more head in his last letter than there was in his first. He sticks well to his hobby-horse, but he puts him through no new paces; we are only treated to the same old caprioles and grave curvets. Perhaps, in his second epistle, he is a shade more solemn and funereal than he was in his first, for he certainly writes more like a Lord Chief Justice than a human being, and there is a Rhadamanthine severity in every stroke of his pen. The sepulchral style of his letter is only once relieved by a suggestion of placidity, and then it is the placidity not of Mr. Curtis, but of Mr. Justice Davis, who was long since gathered to his fathers. Not to lower the sublimity of his position by any earthly termination, he conducts himself, after a series of virtuous actions, to the Day of Judgment, and intimates that upon that tremendous occasion, United States Commisioners will be a great deal better off than their neighbors. If we did not mean to be very polite, we should certainly call this very Pecksniffian.

Mr. Curtis elevates slave-catching to the dignity of a religion, and favors us with his Articles of Faith, which, though only five in number, he evidently thinks are of quite as much importance as the old-fashioned Thirty-Nine. We do not know why he should have been at the trouble of this confession, or of making a rejoinder of any sort. We conceded to him all that he now reiterates; we explicitly admitted that in such discussions as these, he had the law and the logic upon his side, and that he was authorized by Act of Congress to say pretty and pompous and patriotic things; but we endeavored also to show, that, as there is a faith higher than reason, so there may be a principle of action which is abstractly, if not practically, higher than the law. This is what Mr. Curtis cannot understand, but it is an idea which men quite as worthy as he is, have embraced and defended to the bitter end. It may seem very ridiculous in these days of militia glory, that members of the respectable Society of Friends should always have refused to put on epaulets; but we believe that in spite of a practice which Mr. Curtis, no doubt, thinks seditious, they have usually been regarded as pretty good citizens.

Mr. Curtis says, that when we speak of the odium which attaches itself to those who manifest an eagerness to execute an unjust law, we avow a principle of action new in our social history. We answer that such an odium is a natural necessity—an irresistible consequence, for which those only are responsible who have provoked it by imbecile and lunatic legislation. And, while we assert its necessity, we deny its novelty. If Mr. Curtis, about a hundred years ago, had been authorized by His Majesty, George III., to vend to the people of Massachusetts the stamps which that monarch so graciously desired to sell to his trans-atlantic subjects, Mr. Curtis would inevitably have been tarred and feathered, because he would have continued in the business long after prudence had counselled its abandonment. By the accident of his birth he has escaped the Berkleyan balmage; but the moral demonstration continues to be very possible, and though the body may avoid, the soul may receive the pluny honors. Official odium a new idea! What then has given to certain words a base significance? Why do we hold in contempt "common informers"—why is not society more in love with "spies?" Is there a low official who does for hire what gentlemen would die rather than undertake, who might not repeat the complaints of Mr. Curtis, and demand admission to the drawing rooms and a place at the dinner tables of Beacon street? Even the vilest services must be faithfully performed, and loyalty is a quality as necessary in those who grovel for government, as in presidents and prime ministers; but cannot Mr. Curtis conceive of the possibility of his receiving orders from Congress or the Cabinet, which all his patriotism could not compel him to perform? Is there no employment which the exigencies of the government might demand, so servile that Mr. Curtis would reject it with indignation? Yet this is a land of equality, and in the eye of the law, Mr. Curtis is no better than the man who sweeps his office and takes out his letters.

Mr. Curtis declares that if the public contempt reaches him it must also reach Mr. Justice Sprague, who may likewise be called upon to issue warrants. We suppose Mr. Justice Sprague understands this quite as well as Mr. Curtis; for, although fully qualified to do so, he has issued no warrants—he has left that business to his subordinates, just as he has left the service of libels and the arrest of refractory sailors.

And, in this connection, we beg leave to ask, why, if "competent hands" are demanded, the fugitive should not have the benefit of the most competent? Why is he put off with the paltry Commissioner, when he is entitled to the Justice? Why is he compelled to content himself with the subordinate scratch, when he has a constitutional and moral right to the benefit of a full bottomed wig?

In a very mysterious way, Mr. Curtis informs us, that monster as we think him to be, he has often been consulted by fugitive slaves,—a piece of information which he complacently thinks will astonish us. It certainly does not. Nothing can give a livelier idea of the distraction and despair of these poor creatures, than the madness with which they have flown to Mr. Curtis, as the moth flies into the candle. Mr. Curtis says that they were not singed for their confidence, and we are glad to hear it. 'Twas a miraculous escape; and, since Mr. Curtis has promulgated his Articles of Faith, we advise no errant son or daughter of Africa to repeat the experiment. They can hardly be quite at their ease after this new Boston Confession. Since Mr. Curtis, from his extensive advertising arrangements, is likely to go pretty largely into the business of "renditions," the consciousness of having assisted one or two unhappy wanderers, must be a positive emollient to his sensitive spirit; and it is in the same way, that publicans compound for the sale of their uninspected beverages by heading subscriptions for the widows and orphans they have created. Ten dollars are put down to the credit of the *coculus indicus*, and all the progeny of the poisoned wretch sport in new tunics on the strength of the strychnine which murdered their father.

Mr. Curtis has never thought it his duty to discuss the Fugitive Slave Law. Unfortunately for him, others have thought differently, and it is the settled conviction of almost every man, woman and child in Massachusetts, that the law is needlessly cruel, ingeniously remorseless, and antiquated in its tyranny. Against this general belief Mr. Curtis sets his face, and he has a right to do so if he pleases. 'Tis the old Horatian *de gustibus* over again, and, if a man has a taste that way, he is at liberty to indulge it. But the right of private judgment which Mr. Curtis claims, does not belong to him exclusively. He may think his fellow creatures very seditious, and they may return the compliment by pronouncing him unusually pragmatical. His bones may fairly ache to send them all to the House of Correction, and the least tolerant of them may burn with desire to witness the removal of Mr. Curtis from the office of Justice of the Peace. Mr. Curtis thinks he is right—the people of Massachusetts think he is wrong; and it is a little curious, that this is precisely the relative misunderstanding which always exists between the unfortunate inmate of a lunatic asylum and his keepers. But Mr. Curtis will reap one advantage from his solitary position. When, in the political masquerade of last fall, he appeared as "Phocion," he expressed the hope that he might never hold any office in the State government higher than that of Justice. He is in no danger: upon that point he may possess his soul in peace.

As his tastes and aspirations are so largely national, we ardently hope, while there is a Curtis to be employed, there will be a Federal Government to employ him in treason cases and telegraphing, if in nothing more. Unfortunately, in 1845, Mr. Curtis solemnly resolved in Faneuil Hall, that the Union had been dissolved and the Constitution overthrown by the admission of Texas; but it is possible, that what he then declared destroyed, he has since recreated upon paper. It was certainly a little odd that such a mastodon of loyalty could be stung by anything into an antic so revolutionary, but the most pachydermatous are sometimes punctured; and since Mr. Curtis has found by experience, how easy it is to be elegantly treasonous and fashionably seditious in very good company, he ought to be a little more charitable towards those who stop short of announcing the nullification of the laws, and content themselves with demanding their amelioration.

CARD OF ACKNOWLEDGMENT. I wish to express my sincere thanks through this medium to those friends of the enslaved who have presented to me so many *rich* and valuable presents.

It seems strange to me, however, that society should be in such a condition that a man is to be rewarded for doing that for which he ought to be punished if he fails to perform. JOSEPH K. HAYES.

Boston, June 19th, 1854.

The following correspondence will be read with interest. This letter is from the ladies:—

Will Mr. Hayes accept the accompanying purse, with its contents, $153, as a token of respect, from many ladies of Boston, who honor him for resigning his office, rather than be implicated in the execution of the infamous "Fugitive Slave Bill."

The ladies feel that a consciousness of right-doing, is more to Mr. Hayes than gold or silver, but he must allow them to express their high appreciation of his noble deed and their heart-felt regret that no other officer concerned in the late slave case, was found to follow his bright example.

R. L. CURTIS,
E. D. CHENEY,
S. H. WILLARD.
JULIET TAFT,
In behalf of the Ladies.

Boston, June 11.

UNCLE TOM'S CABIN, ILLUSTRATED. *Mr. Hayes:* Permit me to present you with this book as a slight expression of my admiration for the noble example you have so recently set to our whole country in preferring worldly loss rather than a loss of manhood and honor.

May the blessing of God ever follow you and yours for your steadiness in refusing to execute the *infamous and irreligious Fugitive Law.*

Yours with admiration and esteem,
Boston, June 6, 1854. H. B. STOWE.

PLYMOUTH, JUNE 17th, 1854.

JOSEPH K. HAYES, *late a Captain of Police in the city of Boston:* Dear Sir—Please accept the accompanying gold watch and chain, which I have the honor of presenting you in the name of many of the inhabitants of Plymouth, who are desirous of expressing their approbation of your noble conduct on the 2d instant, in resigning your office rather than assist in the execution of the infamous Fugitive Slave Bill. The watch and chain are the gift of members of all political parties, and woman has joined "with alacrity" in a desire to honor your ready sacrifice upon the Altar of Freedom.

Those who know you personally, are aware that to you there was no sacrifice, nor a moment's hesitation. In these degenerate times, if persons in authority were like you, the Fugitive Slave Bill would find none to execute it; and men would no longer shelter their conscience under the so called "duties" of office. So far as our knowledge extends, you are the first person in public or private station called upon to join in its execution, who has peremptorily declined. We have, therefore, deemed your conduct worthy of especial remembrance.

I am, dear sir, with great respect, very truly yours,
CHAS. G. DAVIS, *for the donors.*

The watch has the following inscription: "Citizens of Plymouth, descendants of the first fugitives for Liberty to New England, to Joseph K. Hayes, for his prompt sacrifice to the cause of freedom on the 2d of June, 1854."

It was purchased at the establishment of Mr. Josiah Gooding, 83 Washington street, and is a very costly and elegant watch, accompanied with a massive gold chain.

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and justice. The ladies of Woburn, it will be remembered, sent Mr. Loring "thirty pieces of silver." He has returned them, with the following note:—

"Mr. Loring returns the enclosed money unopened, as he does not need such a memorial to keep fresh his regrets at having incurred the censure of those who sent it. June 5, 1854. Boston."

WENDELL PHILLIPS writes to W. L. Crandall, of New York, as follows:—

Dear Sir,—I did not ask the Mayor to protect my house. If you are an observant man, you'll know it is wholly too early to expect truth from the press, about Abolitionists, though I believe the New York press has corrected this lie.

June 3d, 1854. WENDELL PHILLIPS.

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CHARGE OF JUDGE CURTIS. The charge delivered yesterday, by Judge Curtis, to the Grand Jury of the United States Circuit Court, will be read with peculiar interest. The pertinency of his allusions to recent events in this city must strike every observer. It will be seen that the Judge directs the attention of the jury, not only to the actual perpetration of crime, but to the criminality of those whose instigations, incitements, advice and procurement are instrumental in causing crime to be committed. Such accessories before the fact become involved in the guilt of those who perpetrated the actual deeds of crime, and they are equally amenable to the law for punishment. This is sound doctrine, and we earnestly hope it will be carried into practice. There will be no safety for any man's life as long as we permit men to go unpunished who teach felony and sedition as a trade, and commit murder by procuration because they are too cowardly to lift the assassin's dagger themselves. We trust the Grand Jury will do their proper duty on this occasion:—

There is another criminal law of the United States to which I must call your attention and give you in charge. It was enacted on the 13th of April 1790, and is in the following words :—

If any person shall knowingly or wilfully obstruct, resist or oppose any officer of the United States in serving, or attempting to serve or execute any mesne process, or warrant, or any rule or order of any of the Courts of the United States; or any other legal writ or process whatever, or shall assault, beat, or wound any officer, or other person duly authorized in serving or executing any writ, rule, order, process or warrant aforesaid, such person shall, on conviction, be imprisoned not exceeding twelve months, and fined not exceeding three hundred dollars.

You will observe gentlemen, that this law makes no provision for a case where an officer, or other person duly authorized, is killed by those unlawfully resisting him. That is a case of murder, and is left to be tried and punished under the laws of the state within whose jurisdiction the offence is committed. Over that offence against the laws of the state of Massachusetts we have here no jurisdiction. It is to be presumed that the duly constituted authorities of the state will, in any such case, do their duty, and if the crime of murder has been committed, will prosecute and punish all who are guilty.

Our duty is limited to administering the laws of the United States ; and by one of those laws, which I have read to you, to obstruct, resist, or oppose, or beat, or wound any officer of the United States, or other person duly authorized, in serving or executing any legal process whatsoever, is an offence against the laws of the United States, and is one of the subjects concerning which you are bound to inquire.

It is not material that the same act is an offence both against the laws of the United States and of a particular state. Under our system of government, the United States and the several states are distinct sovereignties, each having its own system of criminal law, which it administers in its own tribunals; and the criminal laws of a state can in no way affect those of the United States. The offence therefore of obstructing legal process of the United States is to be inquired of and treated by you as a misdemeanor, under the act of Congress which I have quoted, without any regard to the criminal laws of the state, or the nature of the crime under those laws.

This act of Congress is carefully worded, and its meaning is plain. Nevertheless, there are some terms in it, and some rules of law connected with it, which should be explained for your guidance. And first, as to the process, the execution of which is not to be obstructed.

The language of the act is very broad. It embraces every legal process whatsoever, whether issued by a Court in session, or by a Judge, or magistrate, or commissioner, acting in the due administration of any law of the United States. You will probably experience no difficulty in understanding and applying this part of the law.

As to what constitutes an obstruction—it was, many years ago decided by Mr. Justice Washington, that, to support an indictment under this law, it was not necessary to prove the accused used, or even threatened active violence. Any obstruction to the free action of the officer, or his lawful assistants, wilfully placed in his or their way, for the purpose of thus obstructing him, or them, is sufficient. And it is clear, that, if a multitude of persons should assemble, even in a public highway, with the design to stand together, and thus prevent the officer from passing freely along the way, in the execution of his precept, and the officer should thus be hindered or obstructed, this would, of itself, and without any active violence, be such an obstruction as is contemplated by this law. If to this be added, use of any active violence, then the officer is not only obstructed, but he is resisted and opposed, and of course the offence is complete, for either of them is sufficient to constitute it.

If you should be satisfied that an offence against this law has been perpetrated, you will then inquire by whom ? and this renders it necessary for me to instruct you concerning the kind and amount of participation which brings individuals within the compass of this law.

And first, all who are present and actually obstruct, resist, or oppose, are of course guilty. So are all who are present, leagued in the common design, and so situated as to be able in case of need to afford assistance to those actually engaged, though they do not actually obstruct, resist or oppose. If they are present for the purpose of affording assistance in obstructing, resisting or opposing the officers, and are so situated as to be able, in any event which may occur, actually to aid in the common design, though no overt act is done by them, they are still guilty under this law. The offence defined by this act is a misdemeanor ; and it is a rule of law, that whatever participation, in a case of felony, would render a person guilty, either as a principal in the second degree, or as an accessory before the fact, does, in a case of misdemeanor, render him guilty as a principal; in misdemeanors all are principals. And therefore, in pursuance of the same rule, not only those who are present, but those who, though absent when the offence was committed, did procure, counsel, command or abet others to commit the offence, are indictable as principals. Such is the law and it would seem that no just mind could doubt its propriety. If persons having influence over others use that influence to induce the commission of crime, while they themselves remain at a safe distance, that must be deemed a very imperfect system of law which allows them to escape with impunity. Such is not our law. It treats such advice as criminal, and subjects the giver of it to punishment according to the nature of the offence to which his pernicious counsel has led. If it be a case of felony, he is by the common law an accessory before the fact, and by the laws of the United States and of this state is punishable to the same extent as the principal felon. If it be a case of misdemeanor the adviser is himself a principal offender and is to be indicted and punished as if he himself had done the criminal act. It may be important for you to know what, in point of law, amounts to such an advising or counselling another as will be sufficient to constitute this legal element in the offence. It is laid down by high authority that though a mere tacit acquiescence, or words, which amount to a bare permission, will not be sufficient, yet such a procurement may be, either by direct means, as by hire, counsel or command, or

indirect, by evincing an express liking, approbation or assent to another's criminal design. From the nature of the case the law can prescribe only general rules on this subject. My instruction to you is, that language, addressed to persons who immediately afterwards commit an offence, actually intended by the speaker to incite those addressed to commit it, and adapted thus to incite them, is such a counselling or advising to the crime as the law contemplates, and the person so inciting others is liable to be indicted as a principal.

In the case of the Commonwealth vs. Bowen, (13 Mass. R. 359) which was an indictment for counselling another to commit suicide, tried in 1816, Chief Justice Parker, instructing the jury, and speaking for the Supreme Court of Massachusetts, said—

The government is not bound to prove that Jewett would not have hung himself, had Bowen's counsel never reached his ear The very act of advising to the commission of a crime is of itself unlawful. The presumption of law is that advice has the influence and effect intended by the adviser, unless it is shown to have been otherwise; as that the counsel was received with scoff, or was manifestly rejected and ridiculed at the time it was given. It was said in the argument that Jewett's abandoned and depraved character furnishes ground to believe that he would have committed the act without such advice from Bowen. Without doubt he was a hardened and depraved wretch; but it is in man's nature to revolt at self destruction. When a person is predetermined upon the commission of this crime, the seasonable admonitions of a discreet and respected friend would probably tend to overthrow his determination. On the other hand, the counsel of an unprincipled wretch, stating the heroism and courage the self-murderer displays, might induce, encourage, and fix the intention, and ultimately procure the perpetration of the dr adful deed; and if other men would be influenced by such advice, the presumption is that Jewett was so influenced. He might have been influenced by many powerful motives to destroy himself. Still the inducements might have been insufficient to procure the actual commission of the act, and one word of additional advice might have turned the scale.

When applied, as this ruling seems to have been here applied, to a case in which the advice was nearly connected, in point of time, with the criminal act, it is, in my opinion, correct. If the advice was intended by the giver to stir or incite to a crime, if it was of such a nature as to be adapted to have this effect, and the persons incited immediately afterwards committed that crime, it is a just presumption that they were influenced by the advice or incitement to commit it. The circumstances, or direct proof, may or may not be sufficient to control this presumption; and whether they are so, can duly be determined in each case, upon all its evidence.

One other rule of law on this subject is necessary to be borne in mind. The substantive offence to which the advice or incitement applied must have been committed; and it is for that alone the adviser or procurer is legally accountable. Thus if one should counsel another to rescue one prisoner, and he should rescue another, unless by mistake; or if the incitement was to rescue a prisoner, and he commit a larceny, the inciter is not responsible. But it need not appear that the precise time, or place, or means advised, were used. Thus if one incite A to murder B, but advise him to wait until B shall be at a certain place at noon, and A murders B at a different place in the morning, the adviser is guilty. So if the incitement be to poison, and the murderer shoots, or stabs. So if the counsel be to beat another, and he is beaten to death, the adviser is a murderer; for having incited another to commit an unlawful act, he is responsible for all that ensues upon its execution. These illustrations are drawn from cases of felonies, because they are the most common in the ooks and the most striking in themselves; but the principles on which they depend are equally applicable to cases of misdemeanor. In all such cases the real question is, whether the accused did procure, counsel, command or abet the substantive offence committed. If he did, it is of no importance that his advice or directions were departed from in respect to the time, or place, or precise mode or means of committing it.

Gentlemen—the events which have recently occurred in this city, have rendered it my duty to call your attention to these rules of law, and to direct you to inquire whether in point of fact the offence of obstructing process of the United States has been committed; if it has, you will present for trial, all such persons as have so participated therein as to be guilty of that offence. And you will allow me to say to you that if you or I were to begin to make discriminations between one law and another, and say *this* we will enforce and *that* we will not enforce, we should not only violate our oaths, but so far as in us lies, we should destroy the liberties of our country, which rest for their basis upon the great principle that our country is governed by laws, constitutionally enacted, and not by men.

In one part of our country the extradition of fugitives from labor is odious; in another, if we may judge from some transactions, the law concerning the extradition of fugitives from justice has been deemed not binding; in another still, the tariff laws of the United States were considered oppressive, and not fit to be enforced.

Who can fail to see that the government would cease to be a government if it were to yield obedience to these local opinions? While it stands, all its laws must be faithfully executed, or it becomes the mere tool of the strongest faction of the place and the hour. If forcible resistance to one law should be permitted practically to repeal it, the power of the mob would inevitably become one of the constituted authorities of the state, to be used against any law or any man obnoxious to the interests and passions of the worst or most excited part of the community; and the peaceful and the weak would be at the mercy of the violent.

It is the imperative duty of all of us concerned in the administration of the laws to see to it that they are firmly, impartially and certainly applied to every offence, whether a particular law be by us individually approved or disapproved. And it becomes all to remember, that forcible and concerted resistance to any law is civil war, which can make no progress but through bloodshed, and can have no termination but the destruction of the government of our country, or the ruin of those engaged in such resistance. It is not my province to comment on events which have recently happened. They are matters of fact, which, so far as they are connected with the criminal laws of the United States, are for your consideration. I feel no doubt that, as good citizens and lovers of our country, and as conscientious men, you will well and truly observe and keep the oath you have taken, diligently to inquire and true presentment make of all crimes and offences against the laws of the United States given you in charge.

WHAT HAS BECOME OF ANTHONY BURNS?—Anti-slavery people will all be anxious to hear of Anthony, and we are therefore glad to find in the *Traveller* a letter from a citizen of Boston, now in Norfolk, Va., the accuracy of whose statements is vouched for by the editor of that paper. Pro-slavery men may not be so very glad to read that letter, but we are rather anxious that they should know where their victim is, and how he likes his situation. Those of them who retain any sensibility, no doubt experienced great satisfaction when they read the lying despatch which came here a day or two ago, and which every man who has wintered and summered with the slave-power, instinctively knew to be false; we mean the story that Burns was glad to get back to Virginia. We are glad to have these undeceived, and we wish they could appreciate the horrors of that life, to which, against law and in defiance of the public will, they consigned an innocent man. The only punishment for them is in the scorn of the community, and the goadings of what little conscience

there is left in their bosoms. To stimulate the slight and inconsiderable modicum of the divine spark, we give the information contained in the letter referred to.

The cutter Morris arrived in Hampton Roads about noon on the 10th, with Burns on board. He was taken before the Mayor, who commit ted him to JAIL for safe keeping. We were told by tell lie-graph that Burns was rejoiced to get back. If so, we can not exactly see why he should be sent to *jail*, unless it was to keep him from *running further South*. The writer's narrative proceeds:—

Yesterday a gentleman of this city called on me, and when alluding to the case of Burns, inquired if I would like to see him. On my answering in the affirmative, he said he would walk over to the jail, and as he was well acquainted with the jailer, he presumed we might be admitted to his cell. I was introduced as a "Boston merchant," and was politely conducted to the private apartment of the fugitive, where in the presence of four other gentlemen, I conversed with him for half an hour relative to his early history, his escape, his trial at Boston and his return.

His history is too familiar to your readers to require additional statements. He said he joined a Baptist Church about seven years ago, and has felt it his duty since, as opportunities have occurred, to exhort in their meetings, and try to lead his fellow servants to a knowledge of the Redeemer. His master, he told me, was not a member of any church.

He can read and write, and is quite intelligent for one of such limited education. He has a no blemess of carriage and truthfulness of manner, indicative of a mind of more than ordinary capacity.

Although he conversed with an air of cheerfulness, and even of humor, it was easy to discover that a *dark foreboding for the future was preying upon his spirits*.

When allusion was made to his accommodations in the Boston Court House, his good fare, and his smoking cigars with the officers, he said laughing ly, that "he needed the cigar to keep his spirits up"; and when asked if he wanted to go back to Boston, he said, "he should like just to let them see that he was alive yet."

To the question what he thought his master would now do with him, he said that "he expected to be sold, and made a Lion of." When asked if he would like to go back, and live with Col. Suttle, he hesitated and replied, "not without he could be treated just as if he had not been away." He was sensible that he had lost caste, where he had always lived, and knew not how to hold up his head again there; *and yet greatly dreaded the alternative of being sold to the South.* Poor fellow! He reminded me of Christian, in the Pilgrim's Progress, when he met Apolyon, and had neither the power to flee, nor the heart to go forward to the encounter.

Burns may well dread being sent to the South. It is "unwritten common law" in Virginia, that no slave who has escaped and been brought back, can remain there. He has to be sent to the "South," where his Northern experience cannot do so much mischief, and where he will expiate his *crimes* in the cotton field or the "rice swamp, dank and lone." Poor Sims, there is reason to believe, was *flogged to death* in Georgia. His blood is upon the hands of George T. Curtis. Loring, and Freeman, and Hallett, and Parker, and Thomas, and Edmands, and Smith, and Washburn must answer for the life, be it longer or shorter, of Anthony Burns, whom they sent back to the dismal abodes of slavery. They have sanctioned the "wild and guilty fantasy," as Lord Brougham calls it, that man may hold property in man. They have outraged the feelings of the Northern people; sent a poor negro Baptist exhorter into the slavery from which he fled, and have not the poor consolation that they saved the Union by their raseality. We wish them great joy in reading the result of their achievements!

From the Pennsylvania Freeman.

PHILLIPS, PARKER, QUINCY.

We can well conceive how the men of Massachusetts, who have so much to glory in, so much to foster their State pride, must have been humbled in the dust at the spectacle of last Friday. Bunker Hill monument should have been shrouded in black; and as the temple at Jerusalem when the Roman conquerors broke into it, there must have been heard in Faneuil Hall the voices of the mighty dead, saying, 'Let us depart.' The Commonwealth, which an eminent English traveller has pronounced 'the model State,' has received a wound, never to close until every foot of that sacred soil has been rescued from the pollution of the accursed Fugitive Slave Law.

Humiliating, however, as the events of last week are to the pride of Massachusetts, foully as they blot her honor, it still remains a proud satisfaction that ancient, liberty-loving Boston was, on that shameful occasion, lineally represented by inheritors of some of her most honorable names: Wendell Phillips, concentrating and exemplifying in himself the best culture of New England, the son of the first Mayor of Boston, for years preceding his Mayorality, President of the State Senate, when that office had a dignity in the eyes of the people, such as attaches to no office now, not even the Presidency of the United States. In Wendell Phillips, the spirit of the old Bay State preserves its identity. He is a living warrant that it still lives, and must triumph as of old: Edmund Quincy, a son of the second Mayor of Boston, whose administration was an era in the history of that city, and who still lives with a Roman reputation for honor and fearless integrity, a grandson of one of the Rebels of the Revolution, sustaining the same relation to the cause of Liberty now, that his grandfather did before him: and Theodore Parker, the New England Preacher, whose grand-father fought at Lexington. Who has a better right than these men to the position they occupy? They were *born* to it. They are bound to stand where they are. We bless God for these living pledges of the final victory of Justice and Humanity. That victory may be delayed. In the meanwhile, what grander results can we look for from the struggle than such men as these, whom it has formed, and is still forming? New England has yet something to be proud of, and to be inspired by, besides the Past.

[For the Commonwealth.]

Letter from Salem.

Salem, June 19, 1854.

Mr. Editor:—On Friday and Sunday last we had a visit from the "Angel Gabriel," who held forth to a motley crowd of men, women and children, Know Nothings and Irishmen, on the common. He did not, however, create much agitation in our sluggish pool, for it requires an angel of much greater spiritual gifts than the present one, to disturb with any purifying effect the quiet and dull waters of Salem conservatism. The Angel moved through our streets—blowing his trumpet with "a certain sound"—with ludicrous speed, as if on the wings of the wind. The modern Gabriel certainly makes flying visits, although his visits, unlike those of other angels, are *not* "few and far between." I have wondered that he did not come down to Salem before, this place being regarded, you know, as the metropolis of Know Nothingism—the spot where the first out-cropping of that stratum of politicians visibly occurred.

By the way, our new Know Nothing city government is getting on famously, and obvi-

ously knows something of city affairs. To be sure, a disappointed Whig dealer in supplies has lately intimated through the *Register* that they "don't know beans," as the vulgar saying is, but, on the contrary, the impression prevails here that they know *those* beans too well. You know our new authorities promised magnificently when they began, and now if they only correspondingly fulfil, all will be right. Some of us have some fears upon this score, based upon the apprehension that although they have started two or three excellent projects, they may be frightened out of the execution of them by the Jeremiads of the croakers, who have so long controlled things here. Amongst the new plans which I have heard mentioned, is the enlargement of the Market, by widening the area on Front street, and lengthening the building some 40 or 50 feet. Such an improvement would be a public benefit, but I presume it will not be done this year. Another reform which is contemplated is, the removal of the Almshouse department from the Neck, and the laying out of the lands there for general uses. The Neck lands are now being surveyed, by a competent person, and as that is the most sightly and pleasant section of the city proper, it seems to be not an unreasonable expectation that it will be built up at an early day. It affords some capital spots for ship-building operations, which some of your Boston mechanics might improve to advantage.

The city fathers did one foolish thing lately, which was, to appropriate $1600 to celebrate the 4th of July. This sum is too large, and besides, recent events have admonished us that we have not much liberty to boast of now, and had better keep mum about our Independence until we have ceased to be the mere nigger-catchers of Virginia slaveholders. However, there is one reconciling circumstance connected with the proposed celebration, viz., that Hon. Anson Burlingame is to be the orator. This fact has created a very unhappy state of mind in some of the more ancient of our old fogies. They were almost inconsolable when the present government was chosen, and threatened to move out of town, which threat many hoped they would carry out, but they didn't. And now that Burlingame is coming, they will certainly move out—for that day.

Have you heard of the late revival of religion in our place? We have had a refreshing in that respect within a week or two—since Burns was sent back—the subject of it being our Postmaster, who has been under weighty concernment of mind respecting the spiritual condition of the North Church in this city. The preaching of a sermon by Mr. Frothingham, upon the Burns affair, was the awakening cause of this promising revival. In consequence thereof our Postmaster has been publishing, (as you have doubtless noticed,) in the *Post* of your city—that pious journal—a series of articles, setting forth that the gospel, as preached in the North Church, is altogether too anti-slavery, and that the theology thereof is very heretical. Now it has afforded our people great consolation to hear of this pious zeal in such an unexpected quarter, for the subject of it has never been suspected before of having overmuch religion, or of being a shining light in the church. Therefore we are glad to witness this unusual interest in spiritual things, though we confess to some regret that the first manifestations of it, in the *Post*, should be in the form of misrepresentation and all uncharitableness. An increase of regard for the common decencies of life, rather than a decrease of them, are usually looked for from a new convert. However, when the conversion happens to be, as in this case, to that sort of gospel which teaches that the first duty of man is "to catch niggers," we must expect a reversion of the common rules of spiritual experience. So we are not surprised, upon the whole, that Mr. Frothingham is unfairly treated and scandalously abused by "Order," in the *Post*.

Doubtless you remember that "Order" was formerly a "howling abolitionist," and wrote a pamphlet against slaveholding. But, he repented of all that just before the last Presidential election, obtaining the full saving knowledge that Hunkerism was the true faith, some time between the defeat of the coalition, (under which he held an office,) and the election of Pierce, (under whom he obtained another.) So you perceive that he changes his mind with sufficient rapidity to suit any emergency. Indeed, it is currently reported about town that since Mr. Frothingham commenced his sermons which "Order" denounces, he ("Order") avowed his approval of them, only they didn't go far enough! Perhaps he has two sets of opinions, one for political use and another for social use, which would accord with the remark he once made to a prominent Whig, that he was "a Democrat politically, *not socially!*"

It is unnecessary to say that Mr. Frothingham is highly respected and beloved by his Society, and esteemed by the whole community. The disgust at the Postmaster's articles is almost universal. NAUMKEAG.

The Boston Mob.

The degenerate people of Boston have again disgraced their city, by seditious violence and bloody resistance to the law. Faneuil Hall, the cradle of American Independence, has once more been desecrated by the frantic treason of lawless fanatics, and the corrupted descendants of those worthies who framed our noble Constitution, have yet another time defiled and set at naught that sacred instrument. The incendiary appeals of SUMNER and SEWARD, delivered in the American Senate, and the blasphemous invocations poured forth by the Puritan Clergy from the houses of God, have produced their appropriate fruit—*Riot, Treason, and Murder*. Not upon the immediate actors in this disgraceful scene—not upon the ignorant mob of degraded whites and infuriate negroes who figured in this bloody tumult, should public indignation fall. But upon the base hypocrites who stirred their brutal passions into frenzy; upon the canting rhetoricians, who, from the pulpit, the press and the rostrum, invoked sedition and cheered it on; upon the cowardly traitors who stimulated the deed which they themselves dared not perform; upon SEWARD and SUMNER and CHASE, who assail the Constitution in the Capitol itself; upon the BACONS, the THATCHERS, the SILLIMANS, the PARKERS, who from the sacred desk and Collegiate chair, inculcate resistance to law as obedience to God; upon the New England Clergy who have soiled the fair mantle of Religion with hate, envy and all manner of un-

charitableness; upon these, the Priests, Scholars, and Politicians of the North, should our scorn and loathing be directed, as the real authors of the evil. The law may not reach them, but popular indignation can. The verdict of the Courts they may escape, but the people will pronounce them *Guilty*. Upon them rests the responsibility of exciting this riot, and all its concomitant disorder and bloodshed. The blood of the officer, who was murdered in the execution of his duty by an unknown assassin, is upon their skirts, and they cannot wash it away. Yes we have come to the conclusion slowly and reluctantly, but it is no longer to be evaded, that this steady hostility to the South manifested in New England, these frequent mobs and these repeated insults, are due not the excited passions of the rabble of free negroes and worthless whites which hang about large towns, but to the men who form and govern the public sentiment, to the men of high station and polished learning, to the literary *parvenus* who affect to reproduce the classic elegance of the ancient Athenians.

This is particularly true of Boston, and if the fugitive Slave Law is ever enforced there to any practical end, it will be done at the point of the bayonet. This is not the first time that the course of justice has been obstructed by a Boston mob, nor will it be the last. Had the U. S. Marshal taken a prompt and bloody vengeance for the murder of his officer, the ultimate consequences would have been valuable. Some such lesson these *Modern Athenians* need. When a great riot has been achieved, when blood has been spilled freely, above all when a *little property has been destroyed*, these demonstrations will cease.—The sight of their fellow-citizens mowed down by artillery, would somewhat tame these foul-mouthed knaves; the spectacle of a block of buildings destroyed, would effect their mercenary souls more keenly, and end these tumults altogether.

But it seems that the Riot had the effect of terrifying Theodore Parker and Wendell Phillips, into some respect for the value of law and order. The assassination of Batchelor, who was an Irishman, excited the indignation of his countrymen, and these reverend traitors began to tremble for their heads, and for what is scarcely less dear to these chaffering peddlers, their chattels and household goods. After stirring up sedition, they went with white lips and shaking knees to beg protection from the Authorities! They, the lawless, demanding protection from the law! They the exciters to murder and riot, crying to the police for aid! Where was their higher law then? Where the fiery courage they boasted about at their Abolition meetings? All gone at the first approach of danger, and nothing left but tremulous fear, and timid supplication! Had they met with stern refusal, and had the Irish made a bon-fire of their houses, first hanging these yelping curs to the highest beam, it had been but retributive justice, for laws violated, churches burned and citizens murdered, in consequence of their rabid fanaticism. These riots will never end until an example is made, and if some of these canting Preachers were strung up by their own white neck-cloths, we should hear less profanity from the Pulpit, and less tumult in the streets. Bonaparte had a good method for taming such characters—*Grape shot first, and blank Cartridge afterwards.* If it were once tried upon these Boston swine, they would not call for a repetition of the experiment.

An Incident in the Late Slave Procession.—The editor of the *Trumpet*, Rev. Thomas Whittemore, "looked upon," as did most every body else, the late Burns fugitive procession. In the last number of that paper, handed us by a friend, we notice an incident of interest. The procession had just turned into Commercial street. At this point a company with muskets had been posted to stop the flow of business which comes through that street to the vicinity of the Custom House, and to Long, Central and India wharves.

The *Trumpet* says: "Here a truckman who had been home for his dinner, and to feed his horses, and was returning, was stopped by the soldiers. He could not pass, and waited. Other teams came up behind him, and a great body of people also, and thus hemmed him in on all sides. He was required to fall back. He said it was 'impossible.' One thing led to another. The man could go neither back nor forward. The officer became enraged, and the truckman also. Finally, the officer threatened to fire upon him. This roused him like the awaking of a lion. 'Fire,' said he 'if you wish to,' using a plentiful sprinkling of oaths. The officer ordered his men to put percussion caps on their guns. At this the truckman elevated himself upon his horse, for he was on horseback, took off his hat, and held it above his head crying, 'fire you cowards, fire,' at the same time showing them his naked breast. The officer gave the word 'ready,' and the soldiers brought up their pieces to the poise with their fingers on the triggers, when the truckman lifted his hat again, and held it over his head, exclaming, 'fire! 'you —— rascals! 'you —— cowards!' fire. They did *not* fire; but a posse of constables went to arrest him, and for a time he was out of sight, lost in the crowd; we believe he was pulled from his horse. But we saw him a short time after, on his horse again. A body of Lancers were brought up, who ranged behind the Infantry at this place, and sat upon their horses with their pistols unholstered, capped and cocked in their hands. It is a great wonder that there was not blood shed at this point. But thank God there was not. Had that truckman been shot, a poorhard working man would have died; but he had a heart as incapable of being moved by *fear* as that of the bravest of the brave."

Boston Journal.

WEDNESDAY MORNING, JUNE 14.

HANGING IN EFFIGY. Some three weeks since, when the Nebraska bill was passed, President Pierce and Senator Douglas were hung in effigy in Exeter, N. H. Some of the papers in that region asserted that the Hon. Amos Tuck was concerned in the disreputable transaction, and in the absence of that gentleman from town, the *Exeter News Letter* took up the cudgels in his behalf, and indignantly denied that Mr. Tuck had any knowledge of the affair. On Mr. Tuck's return to Exeter he addressed a note to the *News Letter*, acknowledging the zeal of the editor in exposing the absurdity of the fabrication, and made the following remarks in regard to the propriety of hanging persons in effigy as an expression of the outraged feelings of the public. This subject is of interest, when almost every village and school district furnishes its quota of old clothes and villainous inscriptions. Mr. Tuck says:

"But I took my pen to make a remark upon the assumption, that if a person be detected in hanging an effigy, he has a blot fixed upon him, of unmitigated disgrace—I agree to no such assumption. I never had a part in hanging an effigy. When I was a young man, there was no such occasion for hanging effigies, or traitors, as at the present time. Yet I would not give a brass farthing for that man's vitality of principle, be he young or old, who does not feel indignant at the perpetration of any great act of injustice, and does not earnestly desire to do some act, not unlawful, to signalize his own condemnation of it. The two men, Franklin Pierce and Harry Hibbard, whose effigies were hung on the occasion referred to, were bound by every principle of justice and right, and by the most solemn pledges, expressly and repeatedly given to the people of this State, forever, in all places, to resist the extension of slavery. They had ascended the ladder of political ambition, only by the multiplied asseverations of fidelity to the principles of liberty and the non-extension of slavery.

Yet in violation of all pledges, in contempt of the conscience and the wishes of the people, in sacrifice of our rights and of humanity, they have joined hands with oppression, and consummated an act, giving license to slavery over an empire of territory. What, can it be expected, are the feelings of young men of intelligence and honesty, in view of such high handed betrayal of a sacred trust? Who could expect their intense condemnation to vent itself in a manner less objectionable than that of stuffing an object with straw, then calling it a Pierce or a Hibbard, and hanging it like a condemned culprit, upon a tree? It is true, they hung the objects in the evening, giving the slaanderers an opportunity to allege that they were ashamed of their act. But I presume, as they did it in a public place, did not disavow their acts, and in fact, passed resolutions for publication, in connection with the act, that they chose the evening as the only time when they had leisure for the performance. They could not indicate their detestation of unfaithfulness by going to the ballot box, or by political agitation; and they chose to signalize it by gibbeting two effigies. They had the example of the fathers of the revolution to justify them. Popular indignation against unfaithful public servants, has shown itself in a similar manner for ages, and will do so hereafter on proper occasions, if the love of integrity and truth continues to inspire the human heart. Who then will condemn these young men? I do not. I approve their spirit, and justify their cause. Let them carry the same spirit into active life hereafter, and to the ballot box. Let them never learn to suppress the genuine indignation of honest hearts, for all species of injustice, but boldly to act out themselves, and with energy to perform all their duties in life.

If every tree by the way side in the north, hung with some token of popular condemnation of men who have falsified their promises so notoriously, and so injuriously to the country, the disgrace of unfaithfulness in high stations would be so branded into the public mind that the people would be secure of having public servants of common honesty for at least one generation."

We agree with Mr. Tuck that "hanging in effigy" is less objectionable than some other modes of expressing intense condemnation—than mobbing, for instance; but it is only less obnoxious to propriety because it is more harmless, and because it is, as often practised in our community, simply a contemptible ebullition of spite. Our revolutionary ancestors were bold and manly in the expression of their indignation. Their demonstrations of dislike and contempt were made at noonday, and no pains were taken to evade any responsibility which might attach to the act. They gloried in their hostility to the oppressive minions of tyrannical power. The effigy Jack Ketches of the present day, on the contrary, invariably perform their functions under the protecting shadow of midnight darkness, and cannot be brought to acknowledge their agency in the work of their hands. They skulk home under the cover of darkness, and virtually acknowledge that they have been guilty of a contemptible act, of which they are heartily ashamed.

The true way in this free country of expressing dissatisfaction and contempt, is by public meetings and resolutions. Any individual with moral perceptions sufficiently obtuse, can hang an obnoxious official in effigy, although the victim of his malice may be as an officer and a citizen above reproach. Of all the officials who have recently been honored by the kind notice of the midnight mob, from President Pierce down to his Jack-of-all-work, we doubt whether there is one who would not much rather be the victim of such a demonstration, than the subject of a battery of resolutions, discharged by a public meeting of respectable citizens.

SUNDAY MERCURY.

PUBLISHED BY

A. J. BENTLEY.

Office—No. 6 Fifth Street, North Side,

At the Periodical Depot, 2d door west of Main.

Fugitives.

Information having been received by the United States Deputy Marshal, Thayer, that a number of fugitive slaves were concealed in the woods on Lick Run, he procured the services of deputy city Marshals, Lee and Worley, and Sheriff Ward, of Covington, Ky., and on Wednesday night last, caught nine negroes in a stable and brought them to the city. The company consisted of four men, two women and three children. They had been taken to the stable where they were found by a mulatto who afterwards informed the officers. On being brought to the city they were locked up in the watch-house, and on Thursday morning were brought before the United States Commissioner, Pendery, for trial. The trial will last for several days. The general impression is that the whole party will be returned to their alleged owners.

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CORRESPONDENCE

BETWEEN THE PRESDENT OF THE N. E. CONVENTION AN THE COUNSEL OF BURNS.

LETTER FROM MR. QUINCY.

DEDHAM, June 3, 1854.

MY DEAR SIR—I have the honor to transmit to you, by the direction of the New England Anti-Slavery Convention, held in Boston this week, the annexed resolution, which was adopted at the fullest moment of the last evening session, the whole audience rising in response to it, with the warmest enthusiasm and the strongest marks of emotion.

I think myself happy, even under the depression of this cruel hour, that I am permitted to be the channel through which this faint expression of gratitude reaches you, representing, as I am sure it does, the feelings of hundreds of thousands of the best minds and hearts in the country. And I avail myself of this opportunity to express the sense of personal obligation I feel, in common with all honest men, for the service you have done in behalf of human liberty; and, with respect,

I am, dear Sir,

Your grateful friend and servant,

EDMUND QUINCY.

[The following is the resolution above referred to :]

Resolved, That we would assure Richard H. Dana, Junior, and Charles M. Ellis, the counsel of Anthony Burns, of our warmest gratitude and our deepest admiration for the prompt and generous devotion with which they hastened to his help, and for the consummate skill, sagacity and eloquence which they have lavished in his defence against his kidnappers ; and, whatever may be the success of their labors, we know that they will find their reward in the approbation of their own consciences, the grateful applauses of the lovers of liberty throughout the world, and the honorable place they have won for themselves on the pages of their country's history.

ANSWER OF MR. DANA.

BOSTON, June 5, 1854.

DEAR SIR—I have just received your very kind note enclosing the resolutions of the New England Anti-Slavery Convention in compliment to Mr. Ellis and myself, for our efforts in behalf of the fugitive Burns.

However much we may differ on certain points and modes, I trust nothing will ever pass under the signet of the Seven Diamonds* to any of my race, which is not substantially in the cause of independence and liberty on each side.

Be so kind as to return my grateful acknowledgments to the New England Anti-Slavery Convention for their prompt and liberal expressions of their feelings of sympathy and regard. The issue has been unfortunate for the poor fugitive, but I firmly believe that the entire transaction, from its beginning to its ending, has been over-ruled for the best purposes of impression on the feelings and understandings of men.

Believe me, dear Sir, ever yours,

RICHARD H. DANA, JR.

EDMUND QUINCY, Esq.

* In allusion to Mr. Quincy's seal of arms.

ANSWER OF MR. ELLIS.

BOSTON, June 5, 1854.

MY DEAR SIR—For the generous, warm and kind expression of feeling conveyed in the resolution of the Convention, and the note you have done me the honor to send with it, accept my hearty thanks. I assure you they gave me the greatest pleasure. I shall keep them as tokens from those whose approval is itself a reward.

Those who got the man did not gain the cause. Hitherto, in the main, it has not been so. Years ago, in the days of Latimer, I went for the first time to a trial—or to a man-catching—at the jail. That would not do now. Such things as we had to bear last week will not be borne much longer.

It does one good to breathe in the fresh air, and see how bright and pure almost every thing looks just after this unexpected tempest. Nobody looked for this. When poor Burns was first brought up, we protested against the hot haste and utter disregard of law or decency with which he was to be sent off. No one who ever gave a just thought to the laws could repress his indignation at what was going on. Any man would have interposed, had it been a strange dog to be shot. I would not have believed that anything could do what I see has been done. At first, things were inclined to go after the old sort. But people feel they have borne too much.

I think the chief cause of this is, that they now see, and happen just at this crisis to have it somewhat forcibly impressed upon them, that they have been cheated and betrayed; but it matters little what the cause is that starts the slide; once in motion, it must on. This is only another proof that there is no staying it.

I am happy to have you feel that my poor efforts have done something for the good cause.

I am, with great respect,

Your friend, C. M. ELLIS.

Correspondence.

The following correspondence explains itself. The check referred to, was, we understand, for the sum of two hundred dollars :—

JUNE 15, 1854.

R. H. Dana, Jr., Esq.:—

We are directed by the Vigilance Committee of Boston to offer you their most sincere thanks for the prompt devotion with which you hastened to the protection of Anthony Burns, and to assure you of their profound appreciation of the eloquence and ability with which he was defended. While recognizing the disinterestedness which led you to proffer your services without a fee, they beg leave to inclose the accompanying check, not as compensation, but merely as a grateful acknowledgement of your efforts to aid them in protecting the fugitive and the freeman.

In behalf of the Executive Committee of the Vigilance Committee, WENDELL PHILLIPS.

30 COURT STREET, June 15, 1854.

Dear Sir :—I have just received your note of yesterday, conveying to me, in very gratifying terms, assurances of the feelings entertained by the body you represent respecting my services in the recent case of Anthony Burns. They give me more credit than I am willing to receive.

The good fortune which is said to attend early rising, made me the first of the members of the bar, or one of the first, to hear that a man was in custody as a slave in the Court Room. To render myself at once on the spot, and to offer my professional services to him and to those who were coming forward as his friends, was an act I trust, natural to me, and requiring no effort or sacrifice.

Many others would have done the same, and no doubt did as soon as they heard the intelligence. I have done so in the cases of alleged slaves in Boston heretofore, and so have others, and I hope that members of the bar in Massachusetts will never fail to be ready to render this service gratuitously to the cause of humanity and liberty. A portion of my time, and the application of such influence and ability as I may possess, is the only contribution I have to make. Others contribute of their means and powers, all in their various ways, and many at great sacrifice, and with little or no return even in the way of acknowledgement.

Looking upon the matter in this light, while I thank the Committee for their kind words of approval, and for the subtlety of good taste which leads them to draw a distinction between compensation and an acknowledgment of a gratuitous service, I am sure the Committee will not think me in the least disrespectful to them when I say that, in whatever form their politeness may cast the offer, I am not willing to retain the check which accompanies your note.

Besides my own feelings in the matter, which would be conclusive with me, I would not have the force of the precedents which have been set in the trials for freedom in Massachusetts thus far impaired in the least, for the honor of my profession and the welfare of all who are in peril.

I beg you to express to the Committee my sense of their attention, and believe me,

Truly, yours, RICH'D H. DANA, JR.

Wendell Phillips, Esq., in behalf of the Ex. Com. of the Vigilance Committee of Boston.

To a letter of like tenor with that to Mr. Dana, and inclosing a check of like amount, Mr. Ellis returned the following answer:—

JUNE 15, 1854.

My Dear Sir:—

I beg you to return my thanks to the Committee for its great kindness and generosity.

The delicate form in which they send this honorarium, makes me hesitate whether I must not retain it on their account. But I am sure they will neither feel hurt nor censure me for returning the check, and saying frankly that in their approval, I shall find great pleasure and sufficient reward, for these reasons:—Because we are all fellow laborers, their own duties are heavy, and this would be in a measure only lightening mine; because I shall always feel better not to retain it, because I wish it might be so that no slave hunter could for any money get any counsel in a free State, and no fugitive or freeman could fail, without fee, to command the services of the best of the bar, and not rely on feeble arms for defence under this law.

This I know will do little to bring that about. I know very well the latitude of some places, and considering that and my position, know that if this were a public thing it would do very little. I desire this, however, not to go beyond you and the gentlemen for whom you act, and though I may not know all of them in person, I think I do know enough of the spirit of the body, and not a few within the bar, to say that, as it is a professional compliment and honor to be assigned as counsel to defend one in a capital case, by the court, so it is felt by a circle not small, as we know it was once, but spreading wider every day, to be a matter of personal and professional duty to stand, if possible, betwixt any man and slavery; which shall be done for the duty's sake.

For reasons, of which these are enough to you and them, allow me to thank you and them for the expression of good will and approbation, which is very grateful to me.

I am ever, yours truly,

Mr. Phillips. C. M. ELLIS.

GLOUCESTER, June 12, 1854.

Editor Commonwealth,—The new kidnapping concern, Loring & Hallett, arrived in town last Friday evening, on a hunt for merchandize for the Southern market. At midnight they made a foray on the family of one Human Rights, an estimable colored citizen, for many years a resident of this place. But our Vigilance Committee were on the alert, and caught them in the very act. Proof of guilt was strong, but in addition thereto, Loring made admissions which were fatal. The culprits were condemned fit for neither earth nor heaven, speedily decked for the sacrifice, and swung high up across the Town Landing.

Judge Loring was genteely clothed in a black suit, with black hat, white cravat, white kerchief peeping from his pockets, and polished boots, as becometh a Harvard Professor, who instils the principles of jurisprudence into the plastic mind of youth. Around his hat was a badge with *Loring* on it; on the forehead, *Judas Iscariot;* across his breast, *Ten Dollar Commissioner;* on his back, *When the wicked rule the people mourn;* beneath his feet, *Justice* and *Manhood.* In his right hand was placed a copy of the *Stamp Act*, which having been found on his person, he had undoubtedly been using to fortify himself with precedents. Even the choking death-noose under his left ear did not much distort the look of bland benevolence His Honor had been wont to bestow on the widows and orphans of Suffolk.

His confederate (or as they call him in these parts, Old Hallett,) was rather rowdyish—slouched straw hat, ragged linen blouse, black cravat askew, seedy snuff-colored pants, cow hide boots of foxy red. On his hat was *Hallett; Benedict Arnold* was branded on his forehead; across the supposed region of his heart was his notorious title, *Soldier of Fortune;* between his square shoulders, *Satan's Mortgage foreclosed.* In one hand he clutched a staff to which was nailed a black flag with *Slavery* in red letters thereon. In the other was a driver's whip much worn. An ugly rent in one knee was partly covered by this patch—*Gloucester Returns, Nov.* 2, 1852—*Democratic* 417, *Ben. Hallett* 15!!! The Great Avenger's countenance showed the ruling passion at the last gasp. The transfer *de jure* of what the Devil had so long held *de facto* was a small matter to him, a few years more or less. I verily believe a galvanic shock would have brought his lash cracking again about poor Loring's ears.

The citizens flocked at an early hour and throughout the day to view the remains. It was the general remark that "hanging was too good for them." I hear that a prominent member of the 15-417 branch of the Democratic party applied to the Selectmen to have the bodies removed, but the officials *knew nothing* of duty of that sort.

A placard—*Serpents never die till sundown, so let these wretches live,*—was duly observed. Towards night they became the prey of a crowd of eager boys, and their *disjecta membra* were quickly scattered far and wide.

It was observed that Loring was destitute of a back-bone, and considerably affected with softening of the brain. Hallett was more of a *lusus naturæ*; not the first trace of a heart to be found, his skull quite double the usual thickness, and the brain a substance of the color and consistency of brass.

An account of this is to be prepared for Mayor Smith's Medical Journal. That valiant dignitary never objects to a story on account of its bigness.

H.

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THE DEMOCRAT

Abingdon, Virginia.

The Boston Fugitive Slave Case.

The outrage upon law in the city of Bostor occurring at the time it did—under a Democrat ic administration, and while the Senate of the United States was considering the Nebraska bil —makes the incidents connected therewith more than usually interesting. We offer no other ex cuse for occupying so many of our columns with the details thereof. The Boston papers contain little else than accounts of disturbances. From them we learn that on Friday, May 26th a writ was issued by Seth Webb, Esq, on account of tort, for the recovery of $10,000 damages against Charles F. Suttle and William Brent, "for, that 'the said Suttle and Brent on the 24th day of 'May inst., well knowing the said Burns to 'be a free citizen of Massachusetts, conspired to- 'gether to have the said Burns arrested and im- 'prisoned as a slave of said Suttle, and carried to 'Alexandria, Va.," &c., &c. Lewis Hayden, a colored man, was the complainant in the case. The writ was served upon Messrs. Suttle and Brent, and they gave the required bail in the sum of $5,000 each.

Subsequently, Chief Justice Wells issued a writ of replevin against U. S. Marshal Freeman, directing that officer to bring the body of Antho ny Burns, the fugitive, before the Court of Common Pleas, on the 7th day of June, next, but the Marshal did not obey the order.

Soon after Burn's arrival in Boston, he wrote a letter to his brother in Alexandria, who is also a slave of Mr. Suttle's, stating that he was at work with Coffin Pitts, in Brattle street, cleaning old clothes. This letter he dated in "Boston," but sent it to Canada, where it was postmarked and sent according to the superscription, to Burn's brother in Alexandria.

A meeting was held in Faneuil Hall on Friday evening to consider the matter of the arrest of the fugitive. At this meeting the *Reverend* Theodore Parker made a speech of which the following report is published:

The Rev. Theodore Parker was next called on, and addressed the audience as "Fellow-subjects of Virginia," which was received with 'No no." He then changed his address to "Fellow-citizens of Boston." He dwelt upon the fact that it was a Boston act, and done by Boston men, to send back Burns. Eight years ago a merchant of Boston kidnapped a man at noon, on the road to Quincy, and Boston mechanics showed the golden eagles they received for doing it. If we had done our duty then, and Faneuil Hall had spoken then, he would not have been speaking here to-night. We are to blame. There is no North. The South goes clear up to the Canada line. Boston is a suburb of the city of Alexandria, "fellow-subjects of "Virginia;" I will take that back when I see some deeds worthy of freedom. He spoke of the encroachments of Slavery; said that the right of trial by jury, the writ of personal replevin, the habeas corpus, were all swept away before Slavery. Slavery is the finality. The first time they arrested a slave here they put the Court-House in chains, but now they are so confident that you are the subjects of Virginia that they do not put the Court-House in chains; or gather the military in Faneuil Hall He said that one of the officers of the city government told twenty policemen to-day not to lift a finger in support of the slave-catchers, and the order was received with cheers. Mayor Smith was invited to preside at this meeting, and he said he regretted that his time was all engaged this evening so that he could not come. His sympathies, he said were all with the slave. They think they can carry Burns off in a cab. (Voice —They can't do it; let them try it.) He had said there were two laws—one is slavery. There is another law, that the people, when they are sure they are right, should determine to go ahead, or to use the words which had been quoted "that which is not just is not law, and that which is not law should not be obeyed" He alluded to the conduct of our fathers in regard to the stamp act and the tea, and held that conduct up as an example for imitation. In the South public opinion is stronger than law, he said, and cited the case of Mr. Hoar's mission to Charleston as an illustration. Another law than Slavery is also a finality. That law lies in our heads and arms and feet. You can put it in execution when you see fit. I am a clergyman, and am a man of peace. But there is a means and an end. Liberty is the end, and peace is not sometimes the means towards it. (Cheers.) These men who are serving the kidnapper in Boston are cowards every one of them, and we need but stand up and declare that this man shall not go back to prove them cowards. Mr. Parker then proposed that when the meeting adjourn it adjourn to meet in Court-square to-morrow morning at 9 o'clock. A hundred voices cried out, "No to-night," "Let us take him out," "Let us go now," "Come on," and one man rushed frantically from the platform, crying "Come on," but none seemed disposed to follow him. Mr. Parker. "Those in favor of going to-night will raise their hands." About half the audiance raised their hands. Much confusion ensued, and the persons on the platform seemed bewildered and in hesitancy how to control the excitement they had raised. The audiance were shouting and cheering. A voice was heard saying, "The slave shall not go out, but the men who came here to get him shall not stay in; let us visit the slave-catchers at the Revere House to night."

After some remarks from Wendell Phillips, another arch-fiend of abolitionism, the excited crowd rushed for court square, pell mell,

shouting, "Rescue him!" "Rescue him!" &c. Entering upon the eastern avenue, in the space of a minute or two, several hundred people had collected. The officers in the building closed the doors, when some dozen people, some of whom were colored, rushed up the steps and commenced pounding on the doors. A pistol was fired by some one in the crowd. A pistol was shortly after fired on the westerly side of the courthouse, when the crowd rushed around the building. Here some two thousand people collected in a very brief space of time. Several pistols were fired in the streets.

The crowd immediately commenced an assault upon the south door, on the west side, with axes, and a battering ram, in the shape of a heavy beam, some twelve feet long, which was at once launched upon the stout oak door. The battering ram was manned by a dozen or fourteen men, white and colored, who plunged it against the door until it was stove in. Meantime, several brickbats had been thrown at the windows, and the glass rattled in all directions. The leaders, or those who appeared to act as ringleaders in the melee, continually shouted "Rescue him!" "Bring him out!" "Bring him out!" "Where is he!" &c., &c. The courthouse bell rung an alarm at 9 1-2 o'clock.

When the doors were opened, two or three persons rushed into the entry, but the officers in the building, who were mustered in full force on the stairs, gave the valorous rioters so warm a reception with clubs and swords, that they quickly retreated to the streets.—Two shots were discharged in the entry, which appeared to intimidate the rioters somewhat, and they retreated to the opposite side of the street. At this time, a large deputation of police from the Centre Watch House arrived upon the ground, and in a few moments arrested several persons and took them to the watch house. Stones were occasionally thrown at the windows, and shouts continued to be made, but the firm stand of the officers stationed within the building, with the support they received from the police, prevented any further demonstration.

At the time the mob beat down the westerly door of the courthouse, several men, employed as United States officers, were in the passage way, using their endeavors to prevent the ingress of the crowd, and among the number was Mr. James Batchelder, a truckman in the employ of Col. Peter Dunbar, who, almost at the instant of the forcing of the door, received a pistol shot (evidently a very heavy charge) in the abdomen. Mr. Batchelder uttered the exclamation, "I'm stabbed," and falling backward into the arms of watchman Isaac Jones, expired almost immediately. The unfortunate man resided in Charlestown, where he leaves a wife and one or two children to mourn his untimely death.

At the time of forcing the door, and just as the fatal shot was fired, one of the roiters, who was standing on the upper step, exclaimed to the crowd, "You cowards, will you desert us now?" At this moment the exclamation of Mr. Batchelder, "I'm stabbed!" was heard, and the roiters retreated to the opposite side of the street.

In the meantime a white man rushed into the crowd and distributed several meat-axes, with the blades enveloped in the original brown paper. Two or three of these axes were subsequently picked up by the officers, and were deposited in the Centre Watch-House.

Shortly after the death of Mr. Batchelder, Coroner Smith took charge of the body, and will hold an inquest to-day

After the arrests had been made the crowd, although excited, remained quiet, but a new element was introduced by the arrival of a military company. The Boston Artillery, Capt. Evans, were in the streets for their usual drill. When they marched up Court-st., the mob at once supposed them to be the U S. Marines come to preserve order, and they were immediately saluted with hisses, groans, and other marks of derision. Capt Evans, seeing an excited crowd, and not knowing anything of the disturbance, immediately marched his command down the west side of the Court-House, and halted in the square, the crowd giving way. When the cause of the appearance of the company was explained the crowd gave them three cheers, and the company departed.

By order of the Mayor the Boston Artillery and the Columbian Artillery were ordered out. and about midnight they took quarters in the City Hall, where they remained during the night, waiting further orders.

The Boston papers furnish the following additional particulars relative to the fugitive slave, Burns:

The Boston Advertiser states that on Saturday, Rev. Theodore Parker was asked if he wished to put his name to the subscription paper to purchase the fugitive. His reply was, "*I have nothing to subscribe but brains and bullets*"

It is also stated that the Marshal has been advised from Washington that the expenses incurred in protecting his prisoner are not to be assessed upon the claimant. The whole amout of the costs of the case cannot thusfar exceed two hundred dollars.

Nelson Hopewell, a negro, the supposed murderer of Batchelder, has been arrested. On being conveyed to the watch-house, a loaded revolver and a dirk knife were found upon his person. The blade of the knife was *stained with blood.* Suspicion was aroused that he might be the murderer of Batchelder, and upon examining the wound of the deceased, it was found that the cut was made by a weapon like that taken from the negro. Batchelder, just as he breathed his last, said: "I'm stabbed." Taken in connection with the fact that Hopewell was seen in the midst of the mob on Friday night, guilt centres upon him with double force. It is stated that there are other evidences bearing strongly against Hopewell

The Bay State Club, of Boston, tendered the Marshal an efficient force of *fifteen hundred men*, in case their services should be required. The Marshal accepted a detachment of 50 from the number.

Boston, May 30.—The examination in the case of the fugitive slave Burns, was resumed this morning, the fugitive having been brought in heavily ironed, and guarded by United States troops.

The court room is not so excessively crowded as it was yesterday. The throng assembled outside is also less numerous, and the excitement has apparently subsided considerably.

Mr. Ellis continued his plea in behalf of the fugitive, and the trial is now proceeding.

[SECOND DISPATCH.]

The case of Burns has gone over until to-morrow. The excitement is subsiding.

The examination of the eleven persons arrested on the charge of riot and of murdering Batchelder, has been postponed till Friday next. The Police Court was crowded when the prisoners were brought in.

[THIRD DISPATCH.]

Boston, May 30.—In the case of Burns, today, Mr. Ellis, counsel for the defence, introduced his testimony. The first witness swore most positively that he saw Burns, the alleged fugitive, in Boston, on the 1st of March, and employed him on the 4th at Mattapan Iron Works, South Boston. His testimony was confirmed by Mr. Drew, the book-keeper at Mattapan Iron Works.

Both witnesses were closely cross examined, but their testimony remains unshaken. The testimony so far is convincing that Burns was in Boston three weeks before the date of his escape, as alleged in the complaint. The general opinion is that he is really the slave of Suttle, but that a fatal error in date has been made in the complaint.

James G. Whittemore, a member of the common council, and formerly director in the Mattapan Iron Works, Stephen Mattocks and B. M. Cillman, employees at the same works, and John Favor, a master carpenter, all testified positively to seeing Burns in Boston before March 8th.

The three first named notice particularly the marks by which the claimant professes to identify him. Horace Brown, a police officer, formerly employed at the Mattapan Works, testified to the same effect. The testimony for the defence here closed, and the court adjourned till to-morrow.

Boston, May 30—9, P. M.—An additional force of United States troops have arrived to assist in preventing the rescue of the fugitive.

The anti-slavery convention is now in session. The most rabid and incendiary speeches have been made, and resolutions passed. One speaker stated that he would rejoice to see Burns, the fugitive slave, stab the United States commissioner dead.

The fugitive, Burns, surrendered to his owner!—Great excitement in Boston—Procreedings of the fanatics—Preparations for departure.

Boston, June 2.—Commissioner Loring this morning decided to surrender Anthony Burns to his owner. Great excitement prevails.

SECOND DISPATCH.

The feeling upon remanding Burns to his owner, is most intense. Many stores are closed, and buildings are draped in mourning. The United States flag is hung at various points, clothed in black. Thus do the inhabitants of Boston testify their respect for the laws of the land!

Every avenue leading to Court Square is densely thronged with a wildly excited populace. The military are everywhere saluted with hisses!

The fugitive will be taken down State street to Central wharf, about two o'clock this afternoon, guarded by 150 United States soldiers, with a nine pounder loaded with grape. A large police force is on Central wharf, where an immense crowd is assembling. The Mayor has placed the city at the disposal of the military.

Bells are tolling in the neighboring villages.

THIRD DISPATCH.

The fugitive on the way to Virginia.—Law Triumphant.

Boston, June 2—P. M.—The fugitive, Anthony Burns, was escorted to the wharf by twelve hundred soldiers, placed on board the steamer without difficulty, and conveyed to the U. S. revenue cutter Morris, which immediately sailed for Norfolk. There was no outbeak.

ARMED PETITIONERS.

Mr. Editor,—I understand that a petition is to be circulated for the signatures of the volunteer soldiers of Boston who recently did duty in the preservatin of the public peace, praying as soldiers for the repeal of the Fugitive Slave Law of 1850. Now, it appears to me that this mode of petition is an ill-advised movement, and will confer no honor upon our eitizen-soldiers, should it be carried into effect. As soldiers they are to obey and support the laws, and as such cannot properly have any voice in making or repealing them. As *citizens*, like all other eitizens, they have the right to petition upon this subject, and there can be no objection to their using it, should they see fit. But as *soldiers*, I hope never to see the day when they will take a stand for or against any particular law; for such a course could be produetive of nothing but evil, not only to the institution of volunteer militia, but also the sacred cause of law and order whieh they are pledged at all times, and on all occasions to maintain. As a sincere friend of the military, I trust that the movement in question may be abandoned, and that all soldiers who chioose to petition upon the subject, will sign the general petition, in common with other eitizens, and sign it as *citizens*.

EUSTIS.

To the Editor:—Will you please say, that if my name was used on any circulars addressed to towns about tolling bells, as stated in your paper this morning, there was some mistake about it.

If I were inclined to join in such at any other time, I should not, being connected with this case, feel at liberty to do so now.

For this reason it is right that the matter should be corrected, though it be of little importance save to me.

C. M. Ellis.

June 16, 1854.

Politics and the Pulpit.—The propriety of clergymen preaching upon politics is a question which, though often mooted, is rarely discussed without prejudice or partiality. Most frequently it is approved or denounced, according as the preachers sustain, or oppose, the views of the individual pronouncing judgment.

That every citizen has a right to express his sentiments on any public measure, no one, we presume, will deny. That clergymen, in common with other citizens, have such a right, will be contested as little. But this right must have respect to time and place. In the pulpit, the preacher officiates as a priest, not as a citizen; he cannot, therefore, in the one capacity, teach what he believes in the other: or, at least, he cannot *rightfully* do it, unless the congregation over which he presides, voluntarily gives its consent. If, however, the hearers desire to be taught politics, as well as religion, he then may preach legitimately on both subjects. The public have no more right to interfere, in such a case, than they have to dictate what any private schoolmaster, lecturer, or other person, shall inculcate.

But the right to speak on politics is rarely conceded, in practice, to a clergyman. We believe that Theodore Parker is the solitary instance, in the United States, of a minister presiding over a congregation in this manner. In all other cases the introduction of politics into the pulpit is a direct trespass on the rights of the pew-owners. For it must be recollected that clergymen, in this country, are supported by what is called the voluntary system; that, under this system, a mutual contract exists between them and those who rent seats; it is as much a departure from the terms of this contract, for the preacher to talk politics instead of religion in the pulpit, as it would be for the pew-holder to pay in counterfeit coin instead of real coin. This is so self-evident that it amazes us how an opposite opinion can be honestly advanced. If preachers even give their hearers a different sort of religion from what they originally agreed to: if, for instance, they become Baptists, when they started Episcopalians, or Catholics, when they began as Protestants—they themselves abandon their posts, feeling that it would be dishonorable to remain. The Rev. and Hon. Mr. Noel in England, and Bishop Ives in this country, are cases in point. Yet, if it is wrong for a man to teach transubstantiation, when he had agreed to preach against it, it is just as much a breach of contract to talk politics when he had bargained to inculcate religion only.

We are aware it is said that clergymen, in discussing politics in the pulpit, are really teaching religion. But this is begging the question. Clergymen, in these enlightened days, do not pretend to personal infallibility. Even the Church of Rome, which claims infallibility for the sacredotal order, in their collective capacity, denies it to the particular individual. But, where the speaker is not infallible, there is a possibility that he may be wrong. The question, after all, may not be a religious one; no obligation of conscience may be involved in it; it may be only such a question as any private citizen is competent to decide, and perhaps, from his superior knowledge of the world, to decide better than the preacher. In fact, most political issues are so complicated, that they have to be determined in a balance of probabilities. It is presumptuous in the highest degree, therefore, for any man, whether clergyman or not, to attempt to pronounce dictatorially on such matters. On a mathematical question there is no fear of going astray. Two and two make four, and always will, to the end of time. But in social and political problems the right and wrong often mingle together so closely, that, like the over-lapping shades of a rainbow, it is difficult to tell where one ends and the other begins.

The true course for clergymen to take is to preach general principles of morality and religion, leaving the hearer to reason out each applicability for himself. This was the practice of the Apostles, nay! of Christ, their great exemplar. Nowhere, either in the Gospels, or in the Epistles, do we find the political institutions of the Roman Empire assailed. Yet, that government was corrupt, cruel, and tyrannical, beyond precedent in modern times. Paul, imitating Christ himself in this particular, preached only against personal sins, well knowing that if men singly became holy, public iniquity would finally give way. He struck at the root, not merely of one evil, but of all evils. The birth of a new civilization, as a consequence of the triumph of Christianity, proved that he was right. If our modern clergymen would follow his example, and labor with his zeal, the political and social maladies of modern society would be removed far sooner than they ever can be by pulpit denunciations, which are often intemperate, always impolitic, and sometimes even utterly unfounded.

We have the highest respect for a body of men, generally so intelligent as the American clergy. They must always, apart from the moral power they wield in virtue of their office, exercise a vast influence over the people at large. But that influence will be diminished, or increased, among thinking men, just in proportion as they trespass upon, or respect the rights of others. We are sure that they will recognize with us the propriety of keeping their civil and clerical characters distinct, so as never to attempt enforcing, under the sacred authority of religion, opinions which they hold merely as citizens.

OBEDIENCE TO LAW.

When good, law-abiding citizens declare that this law and that, which does not exactly meet their views, shall and ought to be resisted by open force, or when other good men take such as declare these doctrines, by the hand, and encourage them on, are they aware of the fact that they are raising a spirit in the land that is sure sooner or later to react upon themselves? Is it not this very principle that fills our penitentiaries? Look at that poor felon chained to the block; what is he there for? Simply for taking the law into his own hands. He was poor, and his rich neighbor (whether so or not) he fancied had become his oppressor. He was too poor to get redress in the courts of justice, and in a fit of passion, set fire to his oppressor's property. Such an offender deserves his doom, you say. Why? because society would be unsafe with such *villains* at large. True; but how safe is society with such *villains* at large as those who murdered Batchelder, an officer in the performance of his duty? And who, think you, were the murderers? The poor misguided wretch that aimed the instrument of death was a mere tool. It was you, ye well fed, well clothed, law-defying criminals. You are his murderers. Your example and high toned words set on and encouraged him. And you richly deserve the punishment which, if not meted out to you by the laws of the land, is sure to overtake you sooner or later, in the goadings of conscience. Your pernicious example is a thousand times more baneful than the penitentiary victim's, for you occupy high stations in society. And if by such examples you encourage this resistance to law, in one case, it may be your turn to become the victim in another.

There is no law in this land that ought to be resisted by force, and none but what can be reached in a lawful way. If the law is unconstitutional, appeal to the high courts. If not unconstitutional, but contrary to your wishes, elect such men as will alter it. If you are unable to do this, then make up your minds that you are in the minority, and don't become so conceited as to suppose that the few know better than the many. This high opinion of one's self has ruined thousands, and sometimes makes the possessor appear very ridiculous.

If you desire the protection of the law in one particular, observe and support them all. If in the public rostrum you raise the angry passions of men to resist a law that in your opinion is wrong, complain not, if on your return home, you find that home in flames, by the hand of one who fancies your home has injured him. Ask not protection from that law you have defied. And when society goes back to that chaos from which it was formed, if you are weak and feeble, complain not that the strong man crushes you to the earth, and takes from you that wealth which you are no longer able to protect. It is your act that has brought this state of things to pass. Complain not if you suffer most. Within your native State you have the right to use all *lawful* means to put down any law you may think wrong, and it may be your duty to do so; but you are not accountable to God or man for the faults of others, after having used all lawful means to convince them of their fault. Beyond this you are not only a "meddlesome busybody," but a despicable crimnal.

Those who "adorn the pulpit" with sentiments of resistance to law, would better "adorn" the Indian war dance. The press that encourages such sentiments, is indeed a licentious one, and deserves none but criminals for its support. I care not who he is, that man who stirs the mob by word or deed to resist law, is a criminal, and ought to learn better in the PENITENTIARY.

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THE CIVIL AND THE MILITARY POWER

A writer in the Boston Courier of the 14th inst., under the signature of "A Counsellor," undertook to review some remarks which appeared in the Daily Advertiser of the 9th inst., respecting the Civil and the Military Power. The author of these remarks, in a second communication published in the Advertiser and Atlas of the 16th inst,, declined making answer to the article in the Courier, or entering into any discussion with the writer, for reasons therein stated. Since that time it has been publicly announced, that the writer of the paper signed "A Counsellor," is the Honorable Benjamin F. Hallett, District Attorney of the United States for Massachusetts, and, in a long article in the Courier of the 21st inst., this gentleman avows the authorship and assumes the responsibility. The manner and style of this communication are obviously different from the first, (as is usually the case when men throw off a mask) and it derives importance from the official station of the writer. But after a careful examination of the paper, the writer of the articles in the Advertiser is unable to see, that a single position of his is overcome or even met; while the misrepresentations of his arguments are so obvious —the mistatements of facts are so palpable—the perversions of legal points so clear--there is such audacity of presumption upon the good sense of intelligent men, and the inconsistencies are so glaring, that, notwithstanding his great respect for the position of the writer, he does not deem it necessary to follow him in his tortuous course of reasoning; some of which he is unable to understand, and the whole of which reminds one of Bassanio's complaint in the Merchant of Venice: "Gratiano speaks an infinite deal of nothing, more than any other man in all Venice: His reasons are two grains of wheat hid in two bushels of chaff; you shall seek all day ere you find them; and, when you have them, they are not worth the search."

The correspondent of the Advertiser is duly sensible of the honor conferred by the legal representative of the United States in Massachusetts when he says that "he has much personal respect for him;" and if he does not return the compliment, he hopes it may be attributed to a doubt in his own mind whether such a compliment coming from one who in the same breath is denounced as "countenancing sedition, disunion and law breaking," would be useful to those who are high in governmental station, or would be desired by one whose singular devotion to law and order for many long years is entirely appreciated in this community.

P. W. C.

[For the Boston Courier.]

THE LAWS TO SUPPRESS TUMULT AND RESISTANCE TO LEGAL PROCESS. MR. CHANDLER'S ARGUMENT REVIEWED.

The Ex-City Solicitor "P. W. C.," has essentially modified the first position he assumed upon "the civil and military power," concerning the late riots in Boston.

In his first elaborate communication in the Daily Advertiser, he declared the calling out of the militia by the Mayor, and the orders given them to aid in enforcing the laws, an illegal proceeding, and assumed that if the military had done any act to repel an attack of the mob, it would have been an unlawful act. The whole force of his reasoning went to establish the position that the military could not be rightfully called out, or if called out, could not move or act until there was an actual riot. This position was so manifestly absurd and unlawyerlike, that I treated it as it deserved, with ridicule. Mr. Chandler has found that the legal sense of lawyers and the common sense of well disposed citizens did not sustain his assumption, so manifestly destructive of the power of the city to protect itself and defend its citizens against the outrages of a mob. If applicable to the fugitive slave, it might equally apply to every outbreak of violence against law, whether arising from political or religious fanaticism, or personal malice directed against classes or individuals, in society. Mr. Chandler has no right to complain of some degree of severity, which was justified by his voluntarily appearing in such a cause at such a crisis, and giving the influence of his name to a hasty misconstruction of law, that there must be an actual riot in operation before the military could be called in aid of the civil power, to preserve the peace and enforce the laws.

In a word, he denied the legality of all steps to call in the aid of the military to prevent a riot or resistance to a legal process, until such riot and resistance had actually taken place, and on this assumption he pronounced the acts of the Mayor and the military illegal, and an excess of power.

The answer to this was given by the act itself which confers the power upon the Mayors of cities in such cases. That act (March 24, 1840,) declares, that whenever, in any county, any tumult, riot or mob shall be *threatened*, to break and resist the laws of this Commonwealth, and the fact be made to appear to the Mayor of any city, such Mayor may issue his precept to any commanding officer, to order his command to appear "*to aid the civil authority in suppressing such violence and supporting the laws.*"

Here then, is first presented in Mr. Chandler's argument the single point of inquiry, in what cases has the Mayor of a city power, by the laws of this Commonwealth, to call out the militia?

The answer is found in the 27th section of the act of 1840, chapter 92, above recited. The Mayor has that power whenever it is made to appear that a tumult or riot, or forcible resistance to law is *threatened*.

Who will deny that this exact case had arisen when Mayor Smith issued his precept to Major General Edmands? Mr. Chandler is compelled to admit this in his second article, which appears in the Boston Atlas of the 16th, and thus he concedes the power of the Mayor to issue his precept precisely as he did do.

We thus start in the argument upon the now agreed law and fact that the Mayor had the power to call out the volunteer militia.

The implied denial of this power was the first great error in Mr. Chandler's first article upon "The Civil and the Military Power;" and that error was the one which "*A Counsellor*," in the Boston Courier of the 14th, repelled, by maintaining that by the law of 1840, "the Mayor is not to wait till the mob have done violence to resist the laws, but is to act when such violence is *threatened.*"

Driven from his first position of want of power, Mr. Chandler now rests his criticism mainly upon the orders given by the Mayor to General Edmands. He is so far startled by the effect of his first legal opinion upon the minds of all conservative citizens, that he retracts his first implied denial of power, and greatly modifies his original attack upon the Mayor, as to the matter of the *expediency* of calling out the militia. He now says that "there seemed to be no utility in debating the question of the *expediency* of the call, because if there were any error it was an error of judgment."

Thus we take a second step in the argument, with the assent of the ex-solicitor, so that the *power* and *expediency* in calling out the military are established.

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This leaves to Mr. Chandler, after all his elaboration, but a single narrow point of legal objection to the whole proceedings. And as I have much personal respect for him, (though I greatly regret that he should have fallen into the error he has committed, of countenancing sedition, disunion and law breaking by the influence of his legal and former official repute,) I will state his objection, in his own words,—and examine it fairly and deliberately. Admitting the power to give the precept, and not denying the expediency, he says :—

So far, so good. The troops were ordered to appear on Boston Common on account of a threatened riot. The next thing we have is a proclamation by the Mayor, in which he informs the citizens of Boston, to whom it is addressed, that, "To secure order throughout the city this day, Major General Edmands and the Chief of Police will make such disposition of the respective forces under their commands, as will best promote that important object, and they are clothed with full discretionary powers to sustain the laws of the land"

Now, the great point is as to the orders which the Mayor here says had been given to Gen. Edmands, and which it now appears were given to him by the Mayor and one Alderman. Were they legal? Had the Mayor of this city any legal right to give Major General Edmands full discretionary power to sustain the laws of the land throughout the city. Admit, if you please, and for the sake of argument, that he could delegate to Gen. Edmands discretionary powers in case of a riot to disperse the mob, had he any power to issue such orders as his proclamation covered, when there was no riot at all, but only a threatened riot? Could he put the whole city under Gen. Edmands? Were the well ordered and well disposed citizens to be placed under the military as well as the ill-disposed? The Mayor is the chief executive officer of the city. He has sworn to preserve the peace, to enforce the laws—can he throw up his power at every threatened riot, and give the whole city over to a military commander and his troops? Where does he get this power? What law gives it to him? How long may he exercise it? If he may do it for a day, why not for a month, if he deems it necessary, and thus violate the whole spirit of our laws, and the genius of our institutions, by placing the military above the civil power?

Mr. Chandler thus narrows down his whole objection, in point of law, to a mere hypercriticism upon the form of proclamation of the Mayor, and asks whether "he had any legal right to give Major General Edmands full discretionary powers to sustain the laws of the land throughout the city. Could he put the whole city under General Edmands?"

Now, is not this a mere hypercritiscism on words, and not taking the action of the Mayor in the just and liberal sense which all friends of law and order should do, under the circumstances? Mr. Chandler cannot seriously entertain the belief that the Mayor's proclamation, either in terms or intent, "*put the whole city under General Edmands.*" Neither the Mayor nor any body else claimed any such power, nor could a generous and manly disposition to construe the proclamation fairly rather than carpingly, find any such matter in it. And yet Mr. Chandler, after having been obliged to yield every other substantial objection to the legality of the proceedings of the military, says he "does not hesitate to repeat that these orders were not only not sanctioned by law, but that they were totally opposed to the law, and the Major General, so far as he undertook to act under them, was in an illegal position and placed the men under his command in peril."

Now, let us see whether the law of the ex-Solicitor is any better on this point than it has proved to be in his other positions from which he has receded.

He assumes first, that the proclamation was the order, and secondly that this order "put the whole city under General Edmands, and placed the well ordered and well disposed citizens under the military, as well as the ill disposed."

Granting that the proclamation covered the substance of the order, what is it? "To secure order throughout the city this day, Major General Edmands, *and the Chief of Police*, will make such disposition of the *respective forces* under their commands, as will best promote that important object."

Why does Mr. Chandler leave out *the Chief of Police*, and the whole body of the police of the city, and assume that this order gave unlimited power to Major General Edmands alone?

This is certainly disingenous. The Mayor, as the head of the Police, may in any emergency, or upon ordinary occasions, so dispose of the whole police as to secure order throughout the city. That is his duty. But suppose the streets are blocked up by a mob, threatening resistance to law, and prepared to attack an officer and his posse when necessarily passing through the streets to serve or execute a legal process, and there is reason to believe that the civil force is not sufficient to prevent the threatened riot and violence? Then, the very case provided for by the law of 1840 has arisen, and the Mayor issues his precept, as he did in this case to Major General Edmands, "to order his command to appear to aid the civil authority in suppressing such violence *and supporting the laws.*" And when Major General Edmands did so appear with his command, he was ordered, in connection with the Chief of Police and civil officers, to make such disposition of the military under his command as would secure order throughout the city, *and "sustain the laws of the land."* Not *violate* the law, as Mr. Chandler assumes the order implied He contends that the order was unlawful, because it put the city under General Edmands. and thus gave him power to act unlawfully. It was not so. Here was no order to do an illegal act, but to do only lawful acts—that is, to sustain the laws of the land, which could be done only by using *lawful* means to sustain the laws. How then was General Edmands placed in an illegal position?

Neither was the order, as Mr. Chandler assumes, to " give Major General Edmands full discretionary powers to sustain the laws of the land *throughout the city.*" No such order was given. The order indicated in the proclamation, was for Major General Edmands and the *Chief of Police* to make such disposition of the respective forces under their commands, as will best promote the important object—" *to secure order throughout the city* this day." And they were clothed with full discretionary powers *to sustain the laws of the land. Order* was to be secured *throughout the city*, and the laws of the land were to be sustained. This was to be taken with sole reference to the purpose for which the military had been called out lawfully, as declared in the precept of the Mayor, viz :— That " there was *threatened* a tumult, riot, and mob of a body of men acting together by force, and with intent to offer violence to persons and property, and by force and violence to break and resist the laws of this Commonwealth in the county of Suffolk; and that military force was necessary to aid the civil authority in suppressing the same."

That was all the military force was ordered to do, and their commander, in connexion with "the civil authority," the police, was intrusted with discretionary power to sustain the laws of the land. And this literally follows the terms of the statute of 1840, which declares the duty of the military force, when thus called out, to be " to aid the civil authority in suppressing such violence (when threatened) and in *supporting the laws.*"

The military, therefore, were to aid in supporting the laws—not a single law merely, but all the laws of the land, which were threatened to be resisted by violence. And they were also to aid the civil authority to secure order throughout the city, against mobs, riot, tumult and violence. How can this be distorted into an order " to put the whole city under General Edmands, and to place the well-ordered and well-disposed citizens under the military ?"

It embraced no part of the city except where disorder reigned—or tumult, riot, mob, and resistance to law were threatened. It reached no well-disposed or well-ordered citizen who kept out of the mob, tumult or riot that was threatened, and offered no resistance. And therefore, although the proclamation might have been worded with more technical precision to suit the taste of a special pleader like Mr. Chandler, yet its import-

meaning, intent and fair construction, are entirely within the spirit and purpose of the law.

I submit it now to every candid or legal mind, that upon Mr. Chandler's own showing, and the plain interpretation of the law, the Mayor's orders *were* sanctioned by law, and were in no respect opposed to any law.

It only remains to consider the last position or rather inference of Mr. Chandler, viz., that "the Major General, so far as he undertook to act under them, was in an illegal position, and placed the men under his command in a peril of which both they and the public have a right to make serious complaint."

Now, if the general order of the Mayor to the Major General was lawful, viz., in aid of the civil authority, and in co-operation with the Chief of Police, to make such disposition of the force under his command as would best promote the object to secure order throughout the city this day, and to sustain the laws of the land; it follows that the Major General and the military were in a perfectly legal position, if they did no unlawful act. If they did an unlawful act, no order of the Mayor or any body else could justify it. The order of the Mayor, therefore, becomes of no importance as to any illegal act done by the military.

Mr. Chandler does not pretend that they did any illegal act, only they *might* have done one, and this brings him back to his original assumption, viz., that the military could not have fired upon the mob, had it become necessary, from the violence of attack. In other words, that the soldiers could not have defended themselves. Upon this point, which is now one of speculation merely, but may become one of practical application hereafter, Mr. Chandler is very vague and unsatisfactory.

He admits that in pursuance of the statute of 1840, the Mayor rightfully called out the military to prevent a threatened riot and forcible resistance to law, and he also admits that when so called out, the military were required, by the same statute, "to obey and execute such orders as they may then and there receive, *according to law.*"

But now, says Mr. Chandler, this "*according to law*" means *only* the Revised Statutes, chap. 129, which he says "contains specific provisions of *all the proceedings* to be taken in case of riots."

But, if it does contain all such provisions in case of riots, that is not our *present case*, nor the case arising under the act of 1840, because here was no actual riot, but merely a threatened violent resistance to law, which would have been a riot and a street fight but for the calling out of the gallant volunteer militia, whose presence alone in the streets overawed the seditionists and prevented bloodshed.

Now, let us see whether this phrase "*according to law*," in the act of 1840, means only according to the Revised Statutes, Chapter 129? In the first place every lawyer knows that if the statute only were meant, the act would have read, according to the statute in such case provided, or "according to chapter 129 of Revised Statutes." Therefore the phrase "according to law," covers all law, statute and common. This brings in aid of the act of 1840 the whole common law touching the powers of a *posse comitatus*, armed or unarmed, in preventing a resistance to or obstruction of legal process. Mr. Chandler evades all this in his summary reply to "A Counsellor." But he cannot escape from the force of the argument in any judicial mind. Hence the pertinancy of the plain doctrine of the common law quoted by "A Counsellor," in answer to Mr. Chandler, showing that "*whenever an officer of justice is resisted in the legal exercise of his duty, he, and the persons acting in aid of such officer, may repel force by force, and if in doing so the party resisting is killed, it is justifiable homicide, and this not merely upon the principle of self-defence, but upon that principle and the necessity of executing the duty the law has imposed.*"

Mr. Chandler will not deny that this doctrine is "according to law," and would be so held by our highest Courts. Then apply it to the case in hand. This is *not* the case of a "riotous and tumultuous assembly to the number of thirty or more," which is provided for by the 129th chapter of the Revised Statutes, to which Mr. Chandler undertakes to limit all proceedings of the military in aid of the civil authority. Here is his manifest error, unskilfulness and want of legal perception in his whole argument. He assumes that after the military are called out to "obey orders according to law," all the preliminaries of chapter 129 must be complied with "before any two of the magistrates named *can proceed to use an armed force.*"

This assumption is unfounded, for the plain reason that the preliminaries required by chapter 129 apply only to a mob of "thirty or more, whether armed or not armed, unlawfully, riotously and tumultuously assembled in any city or town." Such an assembly must first be ordered to disperse, and, if they refuse to disperse, then any two of the magistrates "may require the aid of a sufficient number of persons, *in arms or otherwise*, as may be necessary."

This whole chapter 129 does not give any power to call out the military; and I maintain as a lawyer, and challenge proof to the contrary, that it does not provide for any such case as the act of 1840 provides for, viz: the case of a *threatened* violence to persons or property, or to break and resist the laws.

That is the case fully provided for by the act of 1840, one which was only partially provided for by chapter 12 of the Revised Statutes. So that the use of the 128th chapter by Mr. Chandler, as laying down the law for the *military* when called out in aid of the civil authority is wholly inapplicable, and has no reference whatever to the case that arose on the 1st of June, when resistance to a process of law was threatened by violence.

So conclusive is this point against Mr. Chandler, that he must admit it when he reads the 4th section of his favorite chapter 129, which says that the magistrates "shall proceed in such manner *as in their judgment shall be deemed expedient*, forthwith to disperse and suppress such unlawful assembly."

The 4th section of chapter 129 provides that—

Whenever an armed force shall be called out in the manner provided by the 128th chapter (section 129) for the purpose of *suppressing* any tumult or riot, or to *disperse* any body of men *acting together by force* and with intent to offer violence to persons or property, or by force or violence to resist or oppose the execution of the laws of this Commonwealth, such armed force, when they arrive at the place of such unlawful, riotous or tumultuous assembly, shall obey such orders for suppressing *the* riot or tumult as they may *have* received from the Governor, Judge or Sheriff of the county—and *also*, such further orders as they shall there receive from any *two* of the magistrates or officers mentioned in the first section.

Now, this whole section relates only to a case of actual tumult, or riot, or of a body of men acting together by force and with intent to resist the laws; and in that case the *military* may act without any of Mr. Chandler's preliminaries, found in chapter 129.

I am surprised that he should have fallen into so open an error, in this particular—for he affirms, as if magisterially, that "the Mayor *shall* go among the people assembled and command them to disperse, and *shall* call upon all good citizens to assist, and if the rioters refuse to disperse, then the Mayor may require the aid of "a sufficient number of persons, in arms or otherwise." And then Mr. Chandler lays it down *in terrorem*, as law, that "if any two magistrates shall call in an armed force and order them to fire upon a mob before they have done all the foregoing acts, they will find their legal knowledge enlarged by a personal experience which will be likely to make a lasting impression."

And yet Mr. Chandler cannot find a line of law to justify this threat, as applied to the *volunteer militia* when called out under any existing law of the commonwealth. They are not the

"persons, in arms or otherwise," meant by the 129th chapter. The *military* can be called out to sustain the laws only under the 129th section of chapter 12 and the act of 1840, chapter 92. The first, as limited by the 5th section of chapter 129 in the Revised Statutes, applies only to cases of tumult, riot or a body of men acting together by force. The act of 1840 goes further and embraces a *threatened* tumult, riot or resistance to law. By none but these two provisions can the *military* be called out to "sustain the laws of the land." Mr. Chandler has stumbled over the words in the 4th section of chapter 129, viz "persons, in arms or otherwise." They are not the "militia" described in chapter 12, nor the "division, brigade regiment," &c., named in the act of 1840 whom the Mayor may call out "to sustain the laws." This "militia" if called out under chapter 12, (the old law) was by section 5th of chapter 129 required to obey such orders as they might have received *before* they reached the place of tumult, from the governor, judge or sheriff, to suppress the riot and arrest the offenders. These orders, so given *before* they got on the ground were sufficient, without any subsequent order, because the statute says they shall obey such orders, *and also* such further orders as they shall there receive from any two of the magistrates. But they must obey the first orders whether they get any further orders or not, and if these general directions were given by two officers all the consequences are justifiable.

This made the point and adaptation of the statute of the United States, which "A Counsellor" cited to show that the Marshal has the same powers in executing the laws of the United States as sheriffs have by law in *executing* the laws of the state.

Mr. Chandler turns this off by a sneer, that then the Marshal may call out the military without the aid of the Mayor, and that Marshal Freeman has the command of the troops. But this is not the point I raised in a former communication. It was this :—That if in executing a law of the United States, the officers were threatened with violence in the streets of Boston, through which they were compelled to pass in order to execute that law,—and the Marshal made such representation to the Mayor as satisfied him that a mob would commit violence in the streets—and that the presence of a large military force was necessary to prevent such threatened resistance to law, then the Marshal, while *executing* that law, had all the power which the Sheriff of Suffolk in a like case would have in executing a state law. Then, if Mr. Chandler's assumption was legal, that the Mayor and Sheriff must concur in these *directions* "to disperse the riotous or tumultuous assembly, or to seize and secure the persons composing it," according to chap. 129, then the concurrence of the Marshal with the Mayor, in those directions, would be the concurrence of two officers under that law.

It was therefore to keep the peace of the city and prevent forcible resistance to law, and violence and bloodshed in the streets, that the Mayor so wisely called out the militia, and not merely to execute the fugitive slave law. That would have been executed peacefully by the United States Marshal alone, if a mob had not threatened to resist the law and assail the officers. Then the issue was whether law or mob should triumph, and the Mayor and the military took the side of law, and not the side of the mob. Strange that people of common sense cannot understand that the people are not wanted to execute the fugitive law. All that is wanted is that the Abolitionists should *let it alone*. It is only when they meddle and resist that the military must be called in.

The Mayor conformed to the law of 1840 in every particular in calling out the troops, and he gave them orders to sustain the laws of the land, and they were bound to "obey and execute such orders as they might then and there receive, *according to law*." But this military division under General Edmands, was not the "persons, armed or unarmed," described in the 129th chapter of Revised Statutes, and therefore the orders they were to execute "according to law," were not the orders of two magistrates necessarily, nor was any preliminary going among the people, and commanding them to disperse, required by law, before the military could act to suppress violence and threatened tumult. What that act should be, would depend upon all the circumstances of the case, showing the absolute necessity of a resort to the use of fire arms; and that responsibility any commanding officer of our city military, when called upon in defence of law and order, will never shrink from assuming, and will never fail to exercise with sound discretion.

And here I will leave Mr. Chandler and his ill-timed, and, I think, totally erroneous construction of law, by repelling his imputation, that this community are jealous of the interference of the volunteer militia to suppress riots and sustain the laws of the land. It is not so. They are not a standing army, like the troops which Mr. Chandler extols the Duke of Wellington for concealing when the Chartists of London held their great meeting. They are our sons, brothers and friends, and among our most orderly and patriotic fellow-citizens. If the Mayor should adopt Mr. Chandler's favorite precedent of 1848 from the London Times, when there were 150,000 special constables sworn to keep the peace against the Chartists, who had merely come together to petition Parliament for the right of suffrage, the result would be that the best special constables to be found in Boston would be the members of the volunteer companies commanded by General Edmands. They were none the less valuable as "special constables" by appearing in their soldier dress, rank and file, under their gallant officers, and with plenty of powder and ball for an emergency.

And here let me say, what I think every judicious citizen will concur in, that as between a posse of unarmed men, taken at random to prevent a riot and resistance to law, and the citizen soldiery, there can be no hesitation which is best fitted to preserve the peace of the city. An unarmed or armed posse, without discipline or distinction in dress or order, going into a mob, would themselves be so mixed up with the mob as to increase rather than suppress it; and what discipline could control their excesses if their blood was up?

On the other hand, let a motley mob threaten violence in our streets, and instead of a cudgel and bowie knife street fight between the mob and the police, with hundreds on both sides swelling the riot; call out our citizen troops, and let them march through the streets as the Lancers did in the Broad street riot of 1842, and as the division of General Edmands did the first of June, and what is the result? Not a drop of blood is shed; fanaticism and sedition hide their heads; ORDER IS SECURED THROUGHOUT THE CITY, AND THE LAWS OF THE LAND ARE SUSTAINED.

U. S. ATTORNEY.

NEWS FROM BOSTON. Parson Brownlow of the Knoxville (Tennessee) Whig, in his last received paper, enters his protest against the Nebraska bill, in the following manner, adding some Tennessee news for our Boston people :—

We are in for the season, and, sink or swim, we are dead out against this whole Nebraska scheme! The recent alarming riots in Boston are the first fruits of this Nebraska scheme. Col. Suttle of Virginia arrested a slave of his, under the fugitive slave law, and the fugitive was willing to return home with his lawful owner, but the Abolitionists, encouraged by the passage of this infamous Nebraska bill, got up a fearful row—murdered the United States Marshal, killed one of his guard, and caused scenes of disorder and confusion, never before equalled in New England!

THE FUGITIVE SLAVE CASE AT CINCINNATI. The Cincinnati papers of Friday have the following, by which it appears that the Kentucky runaway slaves were betrayed by one of their own color, for the sake of the reward :—

On last Sunday night, between 8 and 9 o'clock, a party of negroes named Shadrach, aged 60 years, claimed by Jonas Crisler; Susan, his wife, 29 years of age, and two boys, Wesley and John, 9 and 7 years of age; Almeda, aged 26 years, and her child Sarah Jane, aged 3 years; Lewis, aged 24 years, all of whom, except Shadrach, were claimed by William Walton. Lee, aged 21 years, husband of Almeda, claimed by John Gaines, as guardian of Elizabeth Ann and Jasper Blackenbecker; Anderson, aged 22 years, claimed by John P. Scott—left their houses near Burlington in Boone county, Ky., and placing some of their baggage on the backs of three of Mr. Walton's horses, the fugitive party started for the Ohio River, and arrived at a point nearly opposite Lawrencebnrg.

Starting the horses back towards their home the fugitives took a skiff and rowed themselves across the river, arriving on free soil about 12 o'clock on Sunday night. They then started with their faces to the north, and after traveling about two miles and a half, they took refuge under a clump of trees during the day. As soon as the shades of night came on the fugitives left their hiding places and started again. They had not proceeded far before they met a colored man named John Gyser, who promised to assist them in making their escape to the north. They accompanied him to a stable on Mr. Humes's farm, on Lick run turnpike, about 2 1-2 miles from the city, where they were to remain until evening, when he would return with assistance to aid them in reaching Canada. During the day Gyser visited Covington, and hearing that a reward of $1000 was offered for their apprehension and arrest, he gave the information.

They were all arrested the same evening, and conveyed to Cincinnati jail, and the next morning were brought before Commissioner Pendry. Shadrach, the leader of the party, was asked by Mr. Crisler, in court—

"Why did you run away? You are as well clothed as I be, have always been as well fed, and your mistress has always treated you as well as she has me." [The master and slave were clothed precisely alike, in Kentucky homespun.]

Shadrach replied:—"You have always treated me well, but my wife and boys belonged to another man, and I was told they were all sold, to be carried off. That is the reason why I run away. I wanted to save them. You and mistress always used me well."

Crisler pronounced the story a fabrication, and told Shadrach that he would do nothing for him in his old age, and remarked that he did not want to take him home with him, but would sell him if he could get anything for him. There was very little excitement in court; about two hundred colored people were present, and on Saturday the slaves were all given up, and taken away.

REFUGE OF OPPRESSION.

SENTENCE EXTRAORDINARY.

Cassius M. Clay, the Kentucky abolitionist, comes forward to add his notion to the hell-broth of Seward, Sumner, and Phillips. In his letter to the N. Y. *Tribune*, he says :

'Does any man believe that, in a fair contest between liberty and slavery, the wrong will triumph? I do not.

'What, then, shall be done? In the first place, punish the traitors, as an example for all future times. *I honestly believe that every man of the free States who voted for the repeal of the Missouri restriction deserves death.* But there is no legal way of inflicting the penalty—the halter, then, they must escape. But one thing can be done—break them on the wheel of public opinion. Let no man deal with them in business—banish them from the social circle, and disfranchise them practically forever. This seems hard, but the race of traitors must die before we can live.'

If this rule is to be tested by the rigid morality of such men as Cassius, there is not an abolitionist in the land who ought not to have been hanged by the neck ten years ago. The Missouri restriction has been disregarded and effectually repealed by Northern sentiment ever since 1820; and no man was louder and more reckless in denouncing it than our truculent Cassius. We should have no objection, certainly, to see his plan inaugurated, especially if it begins with those who were the first practically to annul the Missouri restriction.

The social exclusion of Cassius is a sublime suggestion. We do not know how the friends of the Nebraska bill will like to be refused admission into the circles in which the fascinating courtesies of such Chesterfields as Greeley are the main attractions; but the idea of being separated from Abby Folsom is appalling; and when Cassius proposes to banish the Nebraska traitors from the society of Dr. Henrietta K. Hunt, the Rev. Antoinette Brown, the Hon. Lucy Stone, he attains the utmost reach of tyranny; especially as we have good reason to believe that the air of this charming presence is heavy with the odors of African exquisites, and trembles to the dulcet tones of Uncle Tom and Rosin the Bow. 'The social circle' from which these enemies of human freedom are henceforward banished have other attractions; not the least of which are the sainted polemics of Parker, the gentle accents of Phillips, the polished politics of Sumner, and the genial and generous ethics of Greeley.—We do not wonder that the sentence was so bitterly pronounced, because it involves a deprivation which in this warm weather is especially to be regretted. —*Washington Union.*

THE NEGRO RACE.

Where, notwithstanding all the efforts of those who arrogantly set up their own notions of right against the ordering of Providence, is the first instance of success? In what time or place has the negro race had a prosperous independent existence? The fertile fields of St. Domingo and the British West Indies have ceased to produce, and their population is falling into primitive African barbarism. Vice and wretchedness are the characteristics of the negroes of the free States of this country; and they crowd the jails, penitentiaries, and hospitals. Many who sigh over the sufferings of the slaves, and yell in the fury of abolition, drive the free negro from their borders. Insanity visits its awful blastings upon the free negro to a greater extent than upon any other condition of man, and demonstrates the responsibilities of freedom as un-

natural to his character—to a character organized for guidance and dependence. Freedom to the negro is his annihilation by more terrible processes than slaughter, and brings associated unhappiness to his neighbors. The only condition in which he is seen happy, cheerful, and healthful, is that of slavery.

There is certainly no more reason to find fault with gradations of races, with the inferiority of one to the other, than to complain of the inequality of individuals of the same race. Indeed, it would violate the analogies of Nature, if the various races of men were of equal endowments, and fitted for equal action in the world. What is there to oppose to all the evidence of the intended and necessitated subordination of the negro? Nothing but the fancies and emotions of men, arguing from the nature of another and higher race, and from the most exaggerated individual eccentricities of that race.—The Giddingses and Sumners, the Phillipses, Beechers, and Parkers, having no adaptation to a position of social harmony or subordinated utility in the race to which they belong, are the last men to judge correctly the destiny of a people adapted for control and usefulness. Arguing from themselves is arguing from the disease of one family to the healthful manifestations of another.

Without pursuing the subject further, let the most fanatical *honest* abolitionist ask himself for what he is seeking to destroy his country—to what end? Let him suppose that the whole country, North and South, without a single exception, agrees in his views, and still abolition is an utter impossibility. As certain as such an insane measure should be adopted, the production of sugar, rice, and cotton ceases. Suppose we can do, North and South, East and West, without these products, still all experience shows that the negroes, left to themselves, will not support themselves. Another three millions of laborers must be introduced to take the place of the negro, and to drive him out of existence. Abolition is, therefore, not only treason to the constitution and country, but to the arrangements of Nature and the rights of humanity. (! ! !)—*Washington Union.*

'GIVE THE DEVIL HIS DUE.'

Under this head, the Troy *Daily Budget* of the 9th inst., says :—

Some of the papers repeat the charge of inconsistency against Wendell Phillips and Parker, of invoking mob law, and afterwards appealing to the authorities to protect them from the mob. Mr. Phillips writes to W. L. Crandall on this as follows :—

Dear Sir :—I did not ask the Mayor to protect my house. If you are an observant man, you'll know it is wholly too early to expect truth from the press, about Abolitionists, though I believe the New York press has corrected this lie. WENDELL PHILLIPS.

June 3d, 1854.

We mean to give 'the devil his due'—if it be possible for mortal man to give DEVILS LIKE THOSE NAMED their just due. No one ever accused Wendell Phillips of asking the *Mayor* to protect his house—but we have already shown that Theodore Parker asked Capt. Eaton, of police station No. 4, to send men to protect Phillips's house, and also that of Garrison ; that he at the same time intimated that the Captain could do as he pleased about protecting his (Parker's) house—knowing all the while, that Capt. Eaton was aware that if there was any danger menacing either of the three houses, that of Parker's was the most likely to be assailed. That these abettors of treason did solicit the assistance of the authorities to protect their persons and property—authorities they afterwards outrageously contemned—no one here has a doubt ; and no matter where the denial may come from, nor in what quibbling language clothed, we re-assert it distinctly as a fact, that such aid *was* asked, and neither Mr. Parker, nor Mr. Phillips, nor the Rev. Mr. Higginson, nor the negro Hopewell, nor the editor of the *Commonwealth*, can vitriolize that fact out of sight.—*Boston Daily Times.*

THE NORTHERN CLERGY.

After quoting from John Mitchel's '*Citizen*' a low and scurrilous diatribe against such of the Northern clergy as memorialized Congress against the passage of the perfidious Nebraska Bill, the Richmond *Whig* says :

The *Citizen* does not hit these sanctimonious hypocrites of the North, styling themselves clergymen, a lick amiss. Of all the contemptible creatures on the face of the earth, this class of Abolition preachers are the most so, who have taken it upon themselves of late to stir up sectional strife. They were doubtless always a disgrace to their calling ; but now they must have made themselves more so in the estimation of every true Christian and honest man. A greater blessing could not happen to the free States, than to have every one of them banished from the country, or consigned to the State Penitentiary. They are the greatest pests to society, the propagators of the most pernicious doctrines that prevail at the North, and hanging or the felon's doom would be but the punishment every one of them deserves. The devil will never get his dues until he is safely in possession of all such characters.

THE DECISION WHICH JUDGE LORING MIGHT HAVE GIVEN.

FRIDAY, June 2, 1854.

Mr. Commissioner Loring came in at 9 o'clock, and the parties being all present, pronounced the following

DECISION.

The question submitted to my decision is whether I shall award to the claimant, Charles F. Suttle, a certificate, authorizing him to take and carry to Virginia the respondent, Anthony Burns, whom he claims as owing him service and labor. The kind of service which he sets up is that of a slave.

The respondent's counsel have objected to the constitutionality of the Act of 1850, under which these proceedings are held, and to my right to act in the premises, on several grounds.

[The Commissioner then stated the points of objection, and over-ruled them successively, and declared his opinion to be that, upon the precedents, he was bound to hold the statute constitutional in all the points affecting this case. We omit his decision on these points, as being of less immediate interest.]

The facts to be proved by the claimant are three:—

1. That Anthony Burns was his slave, by the law of Virginia.

2. That Anthony Burns escaped from slavery in Virginia.

3. That the prisoner is the Anthony Burns in question.

To prove the first point, the claimant introduces one witness, Mr. William Brent, of Virginia. Mr. Brent's testimony shows that Burns has stood in the relation of a slave to Col. Suttle from his boyhood. It also shows that at the time of the alleged escape, Col. Suttle had leased Burns to one Millspaugh, of Richmond, and that Burns was then, and had for some time been in the custody and under the control of Millspaugh, and that he escaped, if at all, from the custody and service of Millspaugh. It is objected by the defendant's counsel that this evidence shows that Col. Suttle is not entitled to the certificate. This raises, certainly, a serious question. By the law of Virginia, slaves are chattels, and the lessee of the chattel, being in possession, has the sole and exclusive

right, against the general owner himself, to the possession and control of the chattel during the lease. The constitutionality of this statute is sustained on the ground that the decision in these proceedings affects merely the possession and temporary control of the party claimed, and does not affect the general property or title. If it were otherwise, it would constitute a suit at law, and a trial by jury would be necessary. It would seem, therefore, quite clear that upon the claimant's own theory, Mr. Millspaugh, and not he, is the person entitled to claim this certificate. If Mr. Millspaugh and Col. Suttle were to interplead before me, each claiming the certificate, I cannot doubt that I should be obliged to grant it to the former.

To prove the second point, viz., the escape, the claimant also offers the evidence of Mr. Brent. Mr. Brent says only that Burns was in Richmond up to the 24th day of March, and was then, and ever since "missing." He does not say that he went away without the leave of Mr. Millspaugh, who alone had the right to control his movements, and how or why he was missing. To explain the act of Burns, they offer evidence of his conversation with Col. Suttle, on the night of his arrest. In this conversation he says that he did not escape; but that being on board a vessel at work, he was tired and fell asleep, and was brought off by accident. Now this story may not be true, but it is put in by the claimant, and it is the very evidence tending to explain the act of Burns, and the claimant is bound by it. Therefore the claimant's evidence not only fails to show an escape, but shows affirmatively that there was no escape. To entitle the claimant to his certificate, there must be, both by the Constitution and by the statute, an *escape*. It is of no consequence how or why the slave comes into a free State—whether by accident, or mistake, or by a superior power; unless he escapes by his own voluntary act, against the will of his master, the *casus fœderis* does not arise. (Simms' Case, 7 Cush., 298.)

On the oral evidence, then, the claimant must fail on the second requirement of the statute, even if the point as to the lease were not sustained.

But the claimant puts into the case a transcript of a record made out *ex parte*, in Virginia, in pursuance of the 10th section of the act of 1850. This act declares that this record "shall be held and taken to be full and conclusive evidence of the fact of escape, and that the service or labor of the person escaping is due to the party in such record mentioned." The record sets forth that Anthony Burns does owe service and labor to Col. Suttle, by a law of Virginia, and that he escaped from such service and labor in Virginia. If, then, this record is to be received, and to have its full statute effect, the title and escape are established, and the only question open to me is that of the identity. But I should be slow to believe that any statute of this land was intended to make an *ex parte* record conclusive against the proof actually made by the party who offers it, on a trial in presence of both parties.

Here is a trial, with witnesses on the stand, in presence of both parties, and the claimant's own proof shows him not entitled to prevail. Can it be that he may fall back upon proof offered at an *ex parte* hearing, previously, and elsewhere, and contradict and control his own proof here, and compel the Court to decide against the evidence? The defendant's counsel contend that by offering proof of the title and escape other than the record, the claimant proceeds under the 6th section, and not the 10th, and is not entitled to use the record, the two sections providing for separate and distinct proceedings; also that the conclusiveness of the record cannot apply to the claimant's own proof but only prohibits the defendant from controverting the record by proof. They also object to the instrument on the ground that it is not a record, but only a recital that there is a record, which is not produced, and because it does not describe the party with "convenient certainty," as required by the statute, inasmuch as it does not say whether he is a white, a negro, an Indian or a mulatto, but only that he is "dark-complexioned." If, on any one of these grounds of objection the record is not received, or not allowed to have conclusive effect, the claimant must fail, because no escape has been proved, to say nothing of the objection as to the lease.

Without deciding at present whether the record is to be received or not, I will pass to the question of identity.

The testimony of the claimant is from a single witness, and he standing in circumstances which would necessarily bias the fairest mind—but other imputation than this has not been offered against him, and from any thing that has appeared before me, cannot be. His means of knowledge are personal, direct, and qualify him to testify confidently, and he has done so.

The testimony on the part of the respondent is from many witnesses whose integrity is admitted, and to whom no imputation of bias can be attached by the evidence in the case, and whose means of knowledge are personal and direct, but in my opinion less full and complete than that of Mr. Brent.

Then between the testimony of the claimant and respondent, there is a conflict, complete and irreconcilable. The question of identity on such a conflict of testimony is not unprecedented nor uncommon in judicial proceedings, and the trial of Dr. Webster furnished a memorable instance of it.

The question now is, whether there is other evidence in this case which will determine this conflict. In every case of disputed identity, there is one person always whose knowledge is perfect and positive, and whose evidence is not within the reach of error, and that is the person whose identity is questioned, and such evidence is offered in this case. The evidence is of the conversation which took place between Burns and the claimant on the night of the arrest.

It may be conceded that this evidence, if received and allowed its full weight, would establish the identity of the prisoner with the Anthony Burns named in the record, beyond a reasonable doubt. The conversation took place very shortly after the arrest of Burns, at the time he first discovered that he was claimed as a slave, and while he was in custody. The only person examined as to his state of mind, a witness for the claimant, says that at first Burns appeared intimidated, but latterly had been entirely composed. Of course this state of intimidation applies to the time of the conversation, which was at the first moment he knew he was held as a slave; and I remember that the next morning I thought him in such a state as to require me to allow him an adjournment, in order to make up his mind what course he would pursue. It is said that the language of Col. Suttle to him, "I make you no promises and no threats—I make no compromises with you," may be considered as intimidating in its character, or at least, as intimating to the prisoner that his treatment hereafter would be according to his conduct there; and I am requested to rule out this evidence, on the ground that the admissions of an alleged slave to his master, while in custody during a trial for his freedom, are not legal evidence for the claimant, and on the further ground that, if not objectionable on general rules, there is evidence here of actual duress and influence. Another objection is that the conversation put in by the claimant is entire, and that if any part of it is received, the whole must be received. His conversation, taken at the worst for the defendant, asserts that he is the party named in the record, and was the slave of the claimant, but shows that he did not escape. It is an inflexible rule of law, provided in justice, that the whole of an admission must be taken together. If, therefore, I am to receive this conversation, while it would satisfy me of the identity, it would negative the escape. But the claimant says the record is conclusive on the point of escape. If so, I must reject a portion of this conversation, because it conflicts with the record, and if I reject a part on such grounds, by the claimant's act, must I not reject the whole? If so, the identity is not proved. The claimant's case is in this dilemma. If the record is received and is conclusive, it seems to me that I must reject the entire conversation, because I cannot take the part that convicts him, if I must reject the part that acquits him, and the claimant fails, because the identity is left in doubt. If the record is rejected, the entire conver-

sation goes in, the identity is proved, but the escape is negatived. Therefore, whether the record is received or rejected, the claimant must fail.

Let me restate the conclusions to which I am led, on the several points. I think myself bound by the precedents to hold the statute constitutional, and to hold that I have jurisdiction in the premises. It is the inclination of my belief that this record, if otherwise sufficient, cannot be admissible as conclusive on the Court against the positive proof of the claimant himself, and that, without the aid of the conclusiveness of the record, the claimant has not proved an escape or a right of possession in himself. On the point of identity, even if the title and escape were proved, there is a reasonable doubt on the evidence of the witnesses, and the burden of proof is on the claimant to establish the identity beyond all reasonable doubt. If the admissions of Burns were received and allowed full weight, it would remove this resonable doubt. To say nothing of the objections to the competency of these admissions on general principles, or under the circumstances of this case, I am not willing to receive that part of a conversation which convicts a man, if I am obliged, by the act of the other party, to reject that part which acquits him. If, therefore, the record is received, the entire conversation goes out, and the identity is not proved. If the record is rejected, the entire conversation goes in and the identity is proved, but the title and escape are not proved. On any of these grounds, I am prepared to place my decision. This result may be owing to the accidents and mistakes which sometimes attend legal testimony, and arise in the vicissitudes and complications of novel proceedings at law. But I am bound to know only the evidence legally before me. The certificate is refused, and the prisoner must be discharged.

THE BOSTON POST.

On the return of the senior editor of the Atlas to this city, after an absence of two or three weeks, his attention was called to an article in the Boston Post, virtually charging him with embezzling the public money, when he filled the office of Naval Officer in the Boston Custom House. As this article is evidently designed by the senior editor of the Post to mislead the public, we will give all the facts in the case, and leave the public to judge which has pursued the most manly and honorable course, the past or present Naval Officer. We will give the exact language of the Post:

"Yes, the reverend editor of the Boston Atlas, *ex-naval officer*, was not only in this horrible place (the naval office,) for four long years, receiving his legal salary of five thousand dollars a year all that time, but *pocketed sixteen hundred dollars in addition*, (which the government says he has no right to) when he reluctantly left the Boston Custom House and became sensible of its wickedness!"

That the whole subject may be understood by the public we will state fully and without reserve all the facts in the case. The law fixing the salary of the Naval Officer, not only specifies the maximum he shall receive as Naval Officer, but provides that he may receive "for any services he may perform for the United States in any other office or capacity," a sum not exceeding "four hundred dollars annually." The act of 1846, establishing the subtreasury, provided that the Naval Officer with the Surveyor, shall count the money in the vaults, examine the books of the assistant treasurer, and make a report to the secretary of the treasury as often as he may direct. The Secretary has ordered this to be done once a month.

The sub-treasury act went into operation during the official term of Mr. Parmenter. He considered that this duty was performed in some other capacity than that of Naval officer, and that he was entitled by law to an extra compensation therefor, and hence he made a charge for his services; and as the government is not sueable, he adopted the common and the only practicable measure of ensuring a settlement, viz., that of retaining a portion of the public money, so as to induce the government to commence a suit, that a judicial decision might be had. This was done by Mr. Parmenter, not with any intent to defraud the government, or to embezzle its funds, but for the purpose of obtaining a settlement at an early day. The course of Mr. Parmenter has been well known to the leading Whigs, but no press to our knowledge was ever mean enough to even intimate that he was a defaulter, or had, to use the sublime language of the Post, "crammed into his pockets" the funds of the nation. Every one acquainted with the subject, knew his course to be perfectly honorable. The Post has known that Mr. Parmenter retained a portion of the public money; and it knows, moreover, that this is the course pursued by government officers generally, when they have money in their hands, as the only method by which a legal decision can be had, and the money be obtained in case the suit be decided in favor of the officer.

While in the naval office, we kept our account for ordinary services entirely distinct and separate from this extra charge, and all those accounts have been adjusted. When we retired from that office we presented our account for extra services, and retained in our hands a sum equal to the charge. Of this fact we informed the Department, in a letter addressed to the Secretary, setting forth the grounds of our claim. We also caused the whole matter to be spread upon the records of the Naval Office, so that all the facts may be known to whom it may concern. The whole matter will turn upon the construction of a statute, and whatever that construction may be, we are prepared to abide the result.

These are not only the facts in the case, but they were all known to the senior editor of the Post when he published his mean charge against us. When we left the office we stated the case to our successor, and he expressed his approval of our course, and as he was as much interested as his predecessors, he expressed his willingness to bear his proportion of the expense of a suit to settle the principle. He even went further, and said he was well acquainted with Hon. H. J. Anderson, Commissioner of Customs, and he would present the case to him and press the allowance of the claim. This conversation we kept as confidential, and should not have mentioned it had not the editor of the Post, in violation of all confidence, attacked us personally, and attempted to impute dishonesty to us by suppressing the important facts in the case.

With this statement of facts, we are willing to submit the case to the public, believing that they will find no difficulty in deciding whose course has been open and manly, and whose has been mean and contemptible.

There are two other points in the article in the Post, which we will notice. The editor says:

"He did not go into it (the Naval Office) as the only chance of gaining a competency; nor does he intend to come out of it with sixteen hundred dollars crammed into his pockets which the government shall say does not belong to him."

Notwithstanding this flourish of trumpets, whoever knows the redoubtable Colonel, knows that he is never backward in receiving all that the law will give him. Ever since he dealt in blanks, wrapping paper and twine, we have seen him ready to receive from the government the largest sum which could fairly be obtained. And that very competence of which he now boasts has been derived in no small degree from the party patronage which he has in a great degree monopolized, to the vexation of others of his party, equally deserving. And now, though he backs out of his statement, that he would bear his portion of the expense of a suit to decide the principle, we have great confidence in the belief, that if it should be decided in favor of the officer, he would cling to his share of the emoluments, as readily as any other man.

The editor of the Post vents his spleen upon us by the use of such terms as "*slander and liar.*" We have no disposition to bandy such terms with the editor of the Post, nor do we fear any injury to our character by such appellations, coming from such a quarter. We are both somewhat known in this community: and we are willing the public should form their estimate of our characters respectively. We are willing they should judge of our honor and patriotism, the manner in which we have respectively attained office, and of the fidelity with which we have discharged our duty when in office. As the editor of the Post is disposed to assail our private character, we are not disposed to shrink from investigation on that score, but are willing the public should judge between us; and we shall not fear their verdict.

THE CIVIL AND THE MILITARY POWER.

Certain articles which have appeared in different papers, commenting upon the sound and unanswerable logic and law of P. W. C., have distinguished the weakness of their cause by the absence of argument, and the substitution therefor of flippancy, dogmatism, and misrepresentation. Of these, the most weak in argument, and the most abounding in its shallow substitutes, are those which have appeared in the Boston Courier. One of these is now understood to be from the pen of that "Counsellor" who counselled Mr. Suttle to refuse to permit the benevolent merchants of Boston to ransom Burns, even for five times his nominal value; and that self-same "Counsellor" whom Mayor Smith chose to follow, in violation of law, rather than to consult his only official adviser, our excellent and estimable City Solicitor,—a "Counsellor" more generally known as a "Soldier of Fortune." His light, however, has been already extinguished, by the second article of P. W. C., published Friday. Having opened its columns to this "Counsellor," who counselled only mischief, false logic, and worse law; and whose sole aim has been to exalt Franklin Pierce, and to injure Boston, the Courier seeks, with blended drivel and flippancy, to screen its correspondent, the U. S. Attorney, and with him his municipal cat's-paw, Mayor Smith. To those who may see the argument it pretends to assail, such stuff can have no influence. Its apparent aim is, however, to make it appear to those who may not have that privilege, that these papers are but mere legal quibbles, instead of the solid, substantial, unanswered and unanswerable arguments, which in reality they are; expounding not only the law, and the general policy under the law, but the great fundamental principles which underlie the law. So far as the legal accuracy of these papers is concerned, they have not been touched or reached. These writers have not even attempted to do so. Nor have they referred to its strongest points, or its more striking illustrations. They pass by what may not be answered.

P. W. C. has clearly shown, moreover, that the law is based on the soundest principle of republican policy, which is, that, at a moment of emergency, the great reliance for the preservation of order and the supremacy of law is upon the people themselves. This principle is recognized in the power which magistrates possess, to call upon bystanders to aid in the preservation of peace, under the penalties of disobedience. This great principle of republican policy implies that the people are sound, and are always ready, when called upon, to uphold the law. The Mayor, however, acted upon an exactly opposite principle—that no reliance is to be placed upon the people; that they were enemies, and to be treated as enemies only, not as the strong arm recognized in our constitution and laws.

The one great error which these writers seek to impress upon their readers, is this: that if any mistake was committed, it was on the right side, that of order; that perhaps the Mayor may have leaned a little too much on the side of law and order, (not, we presume, when so full of regret that he could not preside over the Faneuil Hall meeting, nor yet when he threatened with dismissal any of his police who interfered with any attempt to rescue the claimed fugitive,)—but after all no harm has been done, all has ended well, and the end justifies the means. But this is not so. The error committed is of a far greater moment than these writers allow. A great deal of mischief has been done that might have been avoided, and even greater and most fatal consequences have been escaped only by a hair's breadth, for which escape we owe the Mayor no thanks. Boston has been placed in a false position before the nation, by this great array of military force, with no attempt in the first place to keep the peace by means of peace officers. Our order loving and order preserving city has been subjected to undeserved imputations, which the conduct of the Mayor and his advisers has made it difficult to answer, and which are virtually repeated by these writers. Now if Mayor Smith had but followed the teaching of the law and of experience, by strengthening his civil police, by having the military in readiness, but not offensively prominent, and instead of abdicating his office, and substituting in his stead, a military dictator, had done his own duty in person, as our Eliot and our Chapman and Quincy did before him, how differently would we now stand in the eyes of the country? Where would then be the loop-hole for the arrows of our enemies?

No harm done! Is it no harm to have shown with what facility law may be trampled upon in the name of order, and a military despotism established even in a republic? Another time we may be in hands less safe than with a General Edmands, and no Major Boyd may be at hand to prevent the shedding of innocent blood.

The quibbling writer in the Courier of Saturday takes the ground that inasmuch as there is a doubt whether the Mayor acted legally, he did right to give the people the benefit of the doubt, and to act as he did. But there is no such doubt. The Courier begs the whole ground. Besides, the Courier fails to show that the people would not have had equal benefit if the Mayor had himself acted according to the law. The complaint is, not that the Mayor called upon the militia, but that, while he ordered them to do *their* duty, he neglected *his own;* that he gave up the city to the military power, when there were certain things which he ought to have done himself. All that the Courier says about keeping the public peace, and making every effort to this end, is to no purpose in this discussion, and a mere blind, because nobody denies or questions this proposition. So of all that is said about the riots in Bristol and the Lord Gordon riots in London. No one defends the magistrates in those cases; but because they neglected their duties there, it is no reason why magistrates here should neglect theirs, or do illegal acts. Besides, the Courier has nothing to say of the Chartist demonstration in London in 1848, where a most formidable threatened riot, amounting almost to civil war, was checked without the appearance of a soldier in the streets.

It is unfair, also, for this writer to give the impression, that P. W. C. has attacked Mayor Smith or the military. This is not so, and was expressly disclaimed; nor did that writer argue either that the *calling out* of the military was illegal or that it was inexpedient. The subsequent course of the Mayor, in putting the city, the whole city, under martial law, was complained of as being illegal. Does the Courier deny this? And is such an act, if illegal, to be justified because no harm was done? Is it proper to take *unlawful measures* to enforce *law?* Is it expedient for the authorities, in opposing law breakers, to set them a bad example by themselves breaking the law? Nor do we agree that the question is of such trifling importance as the Courier seems to suppose, or that all discussion is inexpedient. On the contrary, there is no more important question that can arise than this precise one respecting "the civil and the military power." And if it turns out in fact, as is now intimated, that our volunteer militia were not called out to keep the peace under civil magistrates of the State, but were actually in the pay of the United States, and under the orders of a United States officer, enforcing a law of the United States; if all this be so, it will be long before Mayor Smith hears the last of it, if our militia have as much self respect as we suppose them to possess.

The principles avowed by the Courier will justify any course by a magistrate, if he only preserves the peace. Louis Napoleon proclaimed the empire in order to preserve the peace. Our citizens feel that peace is only desirable when it exists under the law, and if the means provided by law be not sufficient for public order, let it be altered by the Legislature, not by the Mayor of Boston. But the means provided by the laws *are* sufficient, if our magistrates have sense enough to understand, and ability enough to execute them.

[From the Daily Advertiser.]

THE CIVIL AND THE MILITARY POWER.—If the articles of our correspondent on this subject produce no other result than to call public attention to a most important subject, they will not have been written in vain. We may add, that the manner in which the discussion has been conducted in our columns is such as ought to protect the writer from any charge or insinuation of being actuated by personal feeling or a desire to justify any breach of the laws of the State or of the United States. It is important that the precise points at issue should be understood. In the first place, our correspondent has never made any personal attack on the Mayor, or denied that he was actuated by any other than proper motives for the course he pursued. Still less has there been any complaint because the militia came out in pursuance of the Mayor's precept, and obeyed the orders of the commander in the proceedings of Friday, the second of June. Nor has there been any question of the legal right of the Mayor to call out the militia in case he deemed it expedient on account of a threatened riot. Whether this course was expedient, is a point of which our correspondent carefully avoided the discussion, on the ground that if an error was committed in this respect, it was merely an error of judgment, involving no principle of importance, and not likely to occur again.

The real question at issue we conceive to be this: Was the conduct of the Mayor and other magistrates, after the troops had been ordered out, and particularly, was the proclamation of the Mayor, in which he stated that certain extraordinary powers had been committed to Major General Edmands, according to law? It is maintained that this course was illegal; that it placed the soldiers themselves in a peril of which they had a right to complain, and was a most dangerous assumption of power on the part of our Chief Executive officer.

It is no answer to these positions, to indulge in sneers at the writer; or to falsely represent him as joining with those who are opposed to the execution of the fugitive slave law, or of favoring the views of fanatical reformers in any manner whatever. Nor will it aid the public in understanding the subject, to raise collateral issues, or to elaborately answer positions which have never been taken and which have no immediate relation to the precise points involved.

An editorial article in the Courier of Saturday treats the whole discussion as one of little importance, especially as there has been no immediate evil result. We are unable to agree with our contemporary in this matter. On the contrary, we regard it of the highest moment that the law should be fully understood by magistrates, citizens and soldiers. The duty of preserving the public peace from riotous assemblies at all times is very obvious, but it is equally clear, that the means taken should be legal; that the authorities, in repressing lawless outbreaks of bad citizens, should not themselves be guilty of violating the laws, and thus set an example which will go far to destroy the confidence of the community in legal enactments. Nor is it a valid defence to any such course, that the peace was in fact preserved, and that public order triumphed. Such a plea will justify lynch law, and the acts of arbitrary power in setting aside the law for the time being, in order to accomplish more speedily a seeming good, by means not justifiable. When the law is violated by those in power, it may be a matter of congratulation that no immediate evil resulted, but it can never be a valid argument to justify such violation in the future. Besides, in the present case it does not appear that the results would not have been equally satisfactory if the legal course had been taken, —if every measure pointed out by the statute had been pursued, and if every measure not sanctioned by the law had been avoided. It is quite obvious, we think, that such would have been the case.

The Courier seems to regard the discussion as if it had been conducted in a captious spirit, and speaks of the "logical hair splitting and microscopical anatomy of the commas and semi-colons of the statute," and says that our correspondent "handles the subject with a frigid indifference to practical results;" that "he stifles the patriot and the citizen in the dry and

barren abstractions of the legist." Our readers will judge whether there is any justice in these assertions; or whether the discussion has not been conducted plainly and with a single view to practical results, and whether true patriotism is better shown in ascertaining and proclaiming the law, than in urging magistrates to make illegal measures in future or those of a doubtful character, in cases where human life is in peril and where the peace and good order of society are at stake.

It is said that the strict legality of the Mayor's conduct is affirmed by some legal authorities and denied by others. This may be the case; but it would be gratifying to have the names of those lawyers of distinction who deny the legal positions which have been maintained by out correspondent.

The impression it makes upon military authorities may be deduced from the very pertinent toast given by General Edmands at the Light Infantry dinner on Monday.

Law and Order—Law in such order that it may be interpreted legally, and not destroy that sense of security which the military feel when they are called upon to run the risk of firing among their fellow citizens.

☞The communication of the writer in yesterday's Post, upon Mayor Smith's conduct, is a cool specimen of backing out from every important proposition he formerly undertook to maintain, without the grace of admitting that he was mistaken, both in his law and his facts, with a small mixture of affected smartness to conceal the nakedness of his position. After two mortal columns of talk or twaddle, now gravely laying down propositions which are of no sort of consequence; now carping at expressions of no importance, and now seriously arguing what nobody denies, he comes at length to the real pinch in the case, the orders of the Mayor, and has the impudence to intimate that no orders were given, or if given, they were probably this, that and the other—when the Mayor himself, who ought to know, expressly states in his proclamation that the Major General had certain orders, which and which only are the ones complained of. This writer seems to know so much better than the Mayor, that one would suppose he drew up the orders himself. "Here," says the wiseacre, "is no delegation of authority, not any more than a physician can be said to delegate his authority, who, leaving a prescription for his sick patient, instructs the nurse to administer it or not, as the event happens." Unfortunately in this case, the doctor instructed the apothecary to take the sole charge of the patient, with authority to administer, not calomel and ipecac merely, but every medicine in the shop, and cold steel and lead to boot. "And it does not appear," he continues, "that the Mayor had not before giving it, [the order] been round, as Mr. C. insists he must." That is, the Mayor may have ordered the mob to disperse, &c., before giving his orders to the Major General, when, in fact, the proclamation was issued before the troops left the Common—before they even assembled there. "I thought," he says, in concluding, "the act of calling out the military an act of wise precaution." Well, who disputes it? "I thought that act would have been useless if the military had not been disposed faster, as they were." What is the meaning of this? How *are* the military "disposed faster." "I thought Mr. C's communication uncalled for. I have yet seen nothing to change my opinion in any of these respects." The Transcript of last evening says the writer of these precious "thoughts," is understood to be Seth J. Thomas, the attorney of Col. Suttle! That's enough. No doubt this gentleman thinks the Mayor did right, and doubts the right of any one to question his acts, or those of anybody else, who assisted in carrying off his client's chattel, but the value of his legal opinion on this or any other particular subject, is quite another question.

The South Carolinian.

By R. W. Gibbes & W. B. Johnston.

COLUMBIA.

Tuesday Morning, June 6, 1854.

Bullets and Brains.

Let the immaculate and Rev. Theodore be hereafter known by this nickname. He who incites mobs to rebellion and murder, he who preaches philanthropy to gay congregations as they loll in velvet cushioned pews, and profanes the sanctuary of the living God by fierce denunciations of the laws of his country, he who stands up as the minister of the gospel of peace, instead of aiding out of his munificent salary the cause which he professes to believe that of humanity, offers "bullets and brains" as his contribution to its advancement! Oh! pious Theodore, when the blood of Batchelder rises up in judgment against you and the other accessories to the murder, we apprehend "bullets and brains" will avail you little. The ignorant perpetrator of the deed may find mercy, but for you, gifted by your Maker with brains and intellect, figuring in a Boston pulpit as His ambassador, where, oh! where, will mercy be found when it will be revealed that the brains thus given to you raised the murderer's hand? "Bullets and brains" we fear in that day will not be regarded as an acceptable offering in the service of that kingdom whose livery you have stolen. But God is merciful, and we "judge not."

Epitaph to James Batchelder.—The following has been published as a suitable epitaph to Mr. James Batchelder, who was killed at the abolition riot in Boston:

In memory of
JAMES BATCHELDER,
aged 24 years,
who, on the 26th day of May, 1854,
in the City of Boston,
in the very Temple of Law,
and in the performance of his duty as a policeman,
DEFENDING THE LAW AND ITS SANCTUARY
from illegal force and violence,
WAS MURDERED BY A MOB,
instigated to riot and bloodshed,
in the name of
HUMANITY AND FREEDOM,
by Theodore Parker,
a minister of the Gospel of Peace,
by Wendell Phillips,
a wealthy citizen of Boston,
and by other kindred spirits and advocates of
the "higher law."

A New England contemporary, having received a pamphlet entitled "A Statement of Facts from every Religious Denomination in New England respecting Ministers' Salaries," going to show the fact that the salaries of clergymen in New England are very low, remarks that he should not object to seeing some of the salaries increased, especially of those who do not consider it a part of their duty to preach politics. But he well says that "the political priests should be paid by the party which receives the benefit of their valuable services."

President's Proclamation.

Subjoined is the proclamation just issued by the President of the United States. The President asserts, in strong and unequivocal language, his determination to enforce existing laws against certain armed expeditions supposed to be intended for the invasion of Cuba:

Whereas information has been received that sundry persons, citizens of the United States, and others residing therein, are engaged in organizing and fitting out a military expedition for the invasion of the Island of Cuba;

And whereas the said undertaking is contrary to the spirit and express stipulations of treaties between the United States and Spain, derogatory to the character of this nation, and in violation of the obvious duties and obligations of faithful and patriotic citizens;

And whereas it is the duty of the constituted authorities of the United States to hold and maintain the control of the great question of peace or war, and not suffer the same to be lawlessly complicated, under any pretence whatever;

And whereas, to that end, all private enterprises of a hostile character within the United States, against any foreign Power with which the United States are at peace, are forbidden, and declared to be a high misdemeanor by an express act of Congress;

Now, therefore, in virtue of the authority vested by the constitution in the President of the United States, I do issue this proclamation to warn all persons that the general government claims it as a right and duty to interpose itself for the honor of its flag, the rights of its citizens, the national security, and the preservation of the public tranquillity, from whatever quarter menaced; and it will not fail to prosecute with due energy all those who, unmindful of their own and their country's fame, presume thus to disregard the laws of the land and our treaty obligations.

I earnestly exhort all good citizens to discountenance and prevent any movement in conflict with law and national faith; especially charging the several district attorneys, collectors and other officers of the United States, civil or military, having lawful power in the premises, to exert the same for the purpose of maintaining the authority and preserving the peace of the United States.

Given under my hand and the seal of the United States, at Washington, the thirty-first day of May, in the year of our Lord [SEAL.] one thousand eight hundred and fifty-four, and the seventy-eighth of the independence of the United States.

FRANKLIN PIERCE.

By the President:
W. L. MARCY, Secretary of State.

What it Costs.

The recovery of stolen property in the person of a black nigger, like Toney Burns, costs a snug sum. It is estimated that the entire expense of this case will exceed the sum of thirty thousand dollars. It is a pity that there is no law by which Boston would be compelled to pay the whole amount.

The Boston papers state that with regard to the military expenses the President has been consulted, and replied that the United States government will assume all the expenses of the military—either for service of United States troops, or of the Massachusetts volunteer militia.

Rendition of Burns.

We subjoin some of the details of the closing scenes of the Boston fugitive slave case:

The Court met at 9 o'clock, when the fugitive was brought in, guarded by a half a dozen men. The court-room was nearly filled with the Marshal's guards—each man being provided with a pistol, concealed about his person. Theodore Parker and Wendell Phillips came in with the fugitive's counsel.

The Commissioner then gave his opinion. After analysing the evidence he discussed the constitutionality of the Fugitive Slave Law, concluding as follows: "I think the statute constitutional, and it remains for me to apply it. The facts concerning the escape and identity were all the Court had to consider, and he was satisfied the claimant had fully established these. He was therefore entitled to a certificate of his rights to the fugitive.

At an early hour this morning, a company of United States Infantry and a detachment of Artillery, with a six-pounder, from the Navy Yard, were stationed to guard the main entrance to the Court House.

A crowd assembled rapidly, thousands having gathered by 9 o'clock. After the Commissioner's decision was announced, Court Square was cleared, and the Artillery detachment performed various military evolutions. Court street, and every avenue leading to the square, being thronged. Numerous stores were closed, and many building festooned with black.

The Mayor soon issued a proclamation urging the people to disperse, and warning them that he had given to Major General Edmunds and the Chief of Police full discretionary powers to sustain the laws with all the military and civil forces under their command.

The American flag was draped in mourning and hung across Court street. Cannon were placed so as to sweep Court Square.

A coffin has just been suspended from a building at the corner of Washington and State streets.

The colored pastor of the Baptist church and Burns' counsel took leave of him at 12 o'clock. He appeared to be in good spirits. There are now fully 20,000 persons in State and Court streets.

Applications were made to the Mayor to have the town bell tolled, but consent was refused.

The preparations made for the conveyance of the prisoner to the wharf were most complete. A large body of police was stationed at Central Wharf, where arrangements had been made to convey him in a steamboat to the revenue cutter Morris, which was then to be towed to sea.

The entire brigade of State Militia, waiting at the Commons, marched down State street, to assist in preserving the peace. As they passed along they were saluted with hisses and cries of shame, by the excited portion of the crowd.

The Light Dragoons, Col. Wright, cleared a passage through State street, which was blocked up by a dense mass of whites and colored persons. When the military had all taken their positions, the line extended from Court Square to Central Wharf, through a crowd of not less than 20,000 persons.

At one o'clock, Court street was cleared of the mob after much trouble. All the streets leading into it are guarded by troops. Wm. Jones, one of the witnesses at the trial, was arrested for using exciting language. He was taken up State street by the police, and enthusiastically cheered all the way. The police were greeted with groans and hisses.

At half-past two o'clock, Burns was taken from the Court House, under a guard of one hundred men, armed with swords and pistols, being the marshal's special deputies, together with three companies of United States troops, including an artillery detachment with their nine pounders ready loaded. The Boston Light Dragoons and Lancer's followed, and the infantry companies of

the First Brigade and State Militia. Groans, hisses and yells were poured upon the line as it passed.

At 3 o'clock Burns was escorted to the wharf, where he was put on board the steamer John Taylor, and conveyed to the Revenue Cutter Morris, lying in the stream, which was immediately towed to sea. She goes direct to Norfolk, Virginia. Not less than 1,200 troops formed the escort to the wharf, together with 150 citizens, each armed with cutlass and revolvers. No serious outbreak occurred.

It is impossible to estimate the number of persons present. The streets were literally packed—thousands were present from the country. At the corner of State and Washington streets a quantity of snuff, cowhage, and a bottle of vitriol was thrown among the escort. In the vicinity of the Custom House a truckman attempted to drive his team through the lines of the military. One of his horses, a valuable animal, was killed by a bayonet stab. The crowd cried "shame," "shame," and made a rush, when the commander of the company, greatly excited, ordered his troops to fire. Col. Boyd, of the staff, hearing the order, spurred his horse in front of the company and prevented the execution of the order. Severals arrests were made, and three or four individuals were badly hurt. A well-dressed elderly man was conveyed to the hospital with his head cut open with a sabre. John K. Hayes, Captain of the Police, resigned at noon, refusing to do duty.

FISHING FOR A NIGGER.—We have had some experience in piscatory exercises, but an officer of the customs, named Casey, beat us all hollow a few nights ago. He understood a secret, known only to experienced fishermen, of *using the right bait.*

It seems that Mr. Casey was in command of a barge on the river for the purpose of preventing or detecting smuggling. While ouside of the shipping, on Sunday night, he thought he heard some one fall overboard from a ship. He immediately directed his boat to the spot, (it was 3 o'clock in the morning,) where he discovered some bubbles in the water. Putting down his hand, it came in contact with the short wool on a negro's head. His hold proved ineffective and the negro sank. At this moment Casey (directing his boatmen to hold on to his legs) immersed himself, and putting his hand way down in the water, it came in juxtaposition with the nigger's mouth, who bit at it as rapidly as a catfish would at the entrails of a turkey buzzard. By this means he hauled the darkey out, and restored him to life and to his master.

But this is not all. We should fail to do justice to the generosity of the owner, did we not state the fact that he forthwith, without any prompting, and merely from the generous impulses of his own nature, paid Mr. Casey the sum of *two dollars.*

We have advised Casey to put in a claim for salvage in the United States Court. He is entitled, we think, to at least half the value of the negro. When we saw him last his finger was greatly swollen and heavily bandaged, in consequence of the wound.—*New Orleans Crescent.*

NORFOLK, June 30th.—A large meeting has been held in this city, at which addresses were made highly eulogistical of President Pierce, the Mayor of Boston, Judge Curtis, and the order loving citizens of Boston, for their respective efforts in aiding the return of the fugitive slave Burns.

SLAVERY IN CALIFORNIA—PROSPECT OF ITS ESTABLISHMENT.

Two years ago a law was passed by the California Legislature granting *one year* to the owners of slaves carried into the territory previous to the adoption of the Constitution, to remove them beyond the limits of the State. Last year the provision of this law *was extended twelve months longer.* We learn by the late California papers that a bill has just passed the Assembly, by a vote of 33 to 21, *continuing the same law in force until* 1855. The provisions of this bill embrace *slaves who have been carried to California since the adoption of her Constitution,* as well as those who were there previously. The large majority by which it passed, and the opinions advanced during the discussion, *indicate a more favorable state of sentiment in regard to the rights of slaveholders in California than we supposed existed.* [The Mississippian.

—The act here rejoiced over establishes Slavery in California as thoroughly as the heart of a slave-breeder could desire. Of course, it is flagrantly unconstitutional; but how will that help its poor victims? Do you suppose the gigantic swindle, Sham Democracy, which elected a Legislature to do so wicked an act, is not equally potent in the choice of its Judiciary? If you do, you are easily duped. It is just as easy to sustain wicked laws as to pass them, when the supposed interests of unprincipled men are to be promoted thereby. Only in Anti-Slavery, aroused and guided by a Free Press, is there any protection against such crimes as that above recorded. Slavery would in time insinuate itself even into Vermont if it were not for concerted, persistent resistance to it.

—A San Francisco paper is giving portraits of the men who compose the present Legislature of that State, giving only initials, but painting them so that all who know may recognize them. Here is one of their biographies, condensed:

H—— finished his boyhood in perfecting himself in every existing vice at Natchez-under-the-Hill, Miss., whence his father sent him to an inland brother to reform. Here he seduced a cousin of his own age (eighteen,) and she, disgraced and ruined, fled with him to New-Orleans, where he lived awhile by gambling, and finally migrated with her to San Francisco. Here he flourished awhile as a blackleg, but finally his luck turned—he was cleaned out—and at last sold out his paramour cousin to a luckier gambler for money. She refused to be transferred, when he beat her brutally over the head, until he left her motionless, insensible, and as he supposed dead, on the floor of their lodging; when he ran away to an interior county and *set up for a politician.* He was successful, as his presence in the Legislature attests. Such characters abound in all newly settled regions where time has not been given for educing Social Order from Chaos. Shall we confer on such the power of imposing Slavery on unborn generations?

THE CONCORD RESOLUTIONS.—We have given our readers some account of the meeting held in Concord, last week, by men of all parties, to consider the great question of the day, and take measures to combine the people against the slave power. The following are the resolutions adopted by this meeting:—

Resolved, That the citizens of Concord, whose fathers were among the first to resist the tyranny of 1775, will not be the last to resist that of 1854.

Resolved, That the passage of the Nebraska and Kansas bills by the present Congress, is an unprovoked and wanton outrage upon the principles and feelings of the freemen of the North and West, and destroys all confidence in the integrity, good faith and honor of the national government.

Resolved, That the compromise of 1820 was in the nature of a compact between the slaveholding and the non-slaveholding States, and inasmuch as that compact has been repudiated by one party, the other party is thereby absolved from all the obligations supposed to be imposed by it. Therefore,

Resolved, That the free States are at full liberty to resist the admission of any slave State into the Union hereafter, and that it is their solemn duty so to do.

Resolved, That the whole system of compromise measures has received a fatal stab in the house of its friends, and the Fugitive Slave Law of 1850 was a part of that system, and cannot stand without its support, therefore

Resolved, That the Fugitive Slave Law of 1850 must be repealed.

And whereas there are unmistakeable indications of a settled purpose on the part of the Administration, and many of those who represent the slave States, to extend the area of slavery by conquest or annexation: and whereas we believe a large majority of the people of this State are decidedly opposed to any further encroachments of the slave power, therefore,

Resolved, That we believe it to be a duty immediately to take such steps as will unite the people of this Commonwealth for the recovery of the ground already lost to freedom, and to prevent the further aggressions of slavery.

Resolved, That a committee of six be chosen, whose duty it shall be to correspond with eminent individuals in various parts of the State, and to invite them to meet at an early day in Boston, for the purpose of making arrangements for a meeting of delegates from every town in the Commonwealth; and to decide what measures shall be adopted to arrest the alarming inroads of the slave power.

These well prepared resolutions express what is generally felt by the people; and those who adopted them show that they mean what they say by taking measures to *act* in accordance with their resolutions, and secure the necessary organization of the people. If the people wait for the "leading politicians," the regular drill sergeants and guardsmen of the old party organizations, to be foremost in this work, they will never see it done. The people themselves must move in the matter. Let the dead bury their dead, and do not imagine that those men who from long habit have become incapable of rising above the small cunning and selfish manœuvres of the mere political partizan, can suddenly assume great sentiments and aims, and become brave leaders of that rising of the North which is now at hand. Let them tinker their crazy old party machines, until they are compelled to see the futility of such labors. LET THE PEOPLE THEMSELVES TAKE MEASURES TO SECURE THE UNION FOR FREEDOM! If the blind and hopeless party politicians insist on remaining in the old prison house of party, where everybody else now feels stifled, the people can resolve and say to each other,—"ARISE! LET US GO HENCE!"

Those who obstruct this movement of the people, are doing the slave power a great service. Douglas and his coadjutors have no more useful helpers than such men, and therefore their counsels will be spurned by all who desire to unite the people against the slave power and its Northern "Nebrascals." Let the people in all towns circulate and sign the pledge of union, and take such measures in their various localities as will keep the ball in motion until the new party is organized.

[Correspondence of the Commonwealth.[

The Adjourned Meeting at Concord.

CONCORD, June 23, 1854.

The adjourned meeting of our citizens to express their opinion upon the Nebraska bill, was held this evening. Hon. J. S. Keyes took the chair, and called the meeting to order at 8 o'clock. The Committee on Resolutions, appointed last evening, consisting of A. G Fay, J. M. Cheney, and R. W. Emerson, reported through Mr. Cheney, a strong, emphatic series. They will be forwarded to you and other city papers in due season. The most important and practical one was, That a committee of six be chosen, whose duty it should be to correspond with individuals in various parts of the State, and to invite them to meet at an early day in Boston, for the purpose of making arrangements for a meeting of delegates from every town in the Commonwealth, to decide what measures shall be adopted to arrest the alarming inroads of the slave power. The resolutions were eloquently sustained by Col. Daniel Shattuck, Hon. Samuel Hoar, Rev. B. Frost, C. C. Hazewell, Esq., Dr. Josiah Bartlett, R. W. Emerson, and Hon. J. S. Keyes, and adopted by acclamation.

The following gentlemen compose the Committee of Correspondence:—

SAMUEL HOAR,	DANIEL SHATTUCK,
C. C. HAZEWELL,	SIMON BROWN,
A. G. FAY,	R. W. EMERSON.

Yours, C. B.

CONNECTICUT.—The Senate of Connecticut has passed a bill, by a party vote, providing that hereafter no Jail, Court House, or other public building of that State shall be used for the custody of a fugitive slave. A bill is also before the same body which inflicts a fine of $5000 upon any person who shall lay a claim to a fugitive slave in that State and shall not prove to make his claim good.

THE PEOPLE'S MOVEMENT.—We are glad to learn that the Concord movement has been followed, or rather anticipated in other quarters. A call for a State Convention, without distinction of party, is already in circulation, and has received signatures. The Convention will be held about the 20th of July.

DEFENSE OF LIBERTY.—The "Act for the Defense of Liberty," which has just passed the Connecticut Legislature, provides, 1st, that any person who shall falsely pretend that any free person is a slave, with intent to procure his forcible removal from the State, as a slave, shall pay a fine of $5000, and be imprisoned five years in the State Prison; 2d, that in all cases arising under this act, the truth of any representation that a man is a slave, shall not be deemed proved except by the testimony of at least two credible witnesses testifying to facts directly tending to establish such representation, or by legal evidence equivalent thereto; 3d, imposes a similar fine and imprisonment upon any person who shall seize any free person with intent to sell him into slavery; 4th, prohibits the admission of depositions as evidence under the act; 5th, provides the same punishment for a witness who shall testify falsely; 6th, provides a punishment of one year in the State Prison for any one who shall obstruct an officer in the service of a warrant under the act, or shall aid any accused person in escaping from pursuit; 7th, excepts from the penalty, the case of claim for apprentices.

THE COURIER.

BY A. S. WILLINGTON & CO.

JUNE 17, 1854.

*What is it but a map of busy life?.....*COWPER.

CHARLESTON.

SATURDAY MORNING, JUNE 17, 1854.

The Veracity of the Rev. Theodore Parker.

Speaking of the recent fugitive slave case in Boston, our correspondent in that city in his letter published in yesterday's *Courier*, had the following paragraph:

Last Sunday, Theodore Parker made the trial the subject of his sermon. It was composed of the usual amount of blasphemy and falsehood. Amongst other statements I notice the following—(as published in the daily papers)—Will some of our Savannah friends contradict the *lie*. Speaking of Thomas Simms, the fugitive, he says—"Simms was beaten to death. He was taken to the prison in Savannah and whipped until he died."

Unfortunately, however, for the Reverend gentleman's reputation for truth, his statement does not contain one *iota* of that virtue. When *Simms* was returned, his master immediately sent him to a highly respectable broker in this city, with instructions to sell him forthwith, but allow him to select, if possible, his purchaser. This *Simms* was unable to do, and therefore at his own request, was shipped to New Orleans, where *he* found a party willing to buy him, and at this present time is working in that city at his trade, that of a bricklayer, so successfully, that in a short time he will be in a condition, if he feels so disposed, to buy himself. So much for abolition veracity.

Commonwealth.

Boston, Monday, June 26, 1854.

MORNING EDITION.

FREE DEMOCRATIC STATE COMMITTEE.

The office of the Free Democratic State Committee is at No. 30 SCHOOL STREET, (up stairs.) Entrance No. 1 Province treet.

A NOBLE GRAND JURY.—We understand, unofficially, that a Grand Jury has refused to find bills against Rev. Theodore Parker, Wendell Phillips, Dr. S. G. Howe and others, for sedition, or for aiding in the slave riot. The Jury could not be urged or coaxed into it. A government officer has often, in other places, advocated the doctrine that Juries are judges of tho law as well as the facts. And in the cases which have lately been brought to the notice of a Grand Jury, they have followed this doctrine, although the same advocate argued the reverse to them. It is said there was some curious swearing before the Jury referred to. It was of such a character, that it was not generally believed by the jurors, hence no bills.—*Sunday News, June 25th.*

We understand that Hallett has made very great exertion to get indictments against these men; but we did not believe he could succeed in this nefarious business, and we felt quite sure that no jury could be made to convict them, even if they should be indicted. We have been confident that the Grand Jury would save the State from this additional outrage, by protecting its character from the disgrace of such indictments. Nothing but the bloodhound spirit of the slave power, at work in the basest and most unscrupulous of its vassals, could have instigated such proceedings against those men for anything they did or said, that night, in Faneuil Hall. It is a very high handed proceeding, even for political scoundrelism that has become incapable of being ashamed of itself, to perpetrate a great outrage that makes all the purest and best men and women shudder and burn with indignation, and then undertake to indict them for being thus excited.

In such cases, it is the imperative duty of the Grand Jury to remember that they are not bound to accept the law as it may be laid down by the District Attorney, or even by the judge. And they should also just as carefully remember, that in regard to political offenses, or cases where men are charged with crime merely to gratify a despotic government, or a malignant and unscrupulous faction that controls the government, or a blood-thirsty prosecuting officer, that the grand jury, as well as the petit jury, stands to guard the liberty and personal rights of the citizen, that they are bound to judge of both the law and the facts, and that if even they accept the law as laid down by the court, they are not bound to "find a true bill," if, in the honest exercise of their discretion, they think the prosecution ought to be stopped. This is a prerogative which the grand juries in Boston have always exercised, and we trust they will always continue to exercise it.

That community in which the minions of despotism can crush out opposition to wicked laws and force everybody to bless the infernal rascalities employed to execute them, must be utterly unfit for democratic institutions. There can be no genuine reverence for law, no honest and reliable sense of the great duties of citizenship, in those who can uphold wickedness and cheer on its blood-thirsty ministers. We owe a duty to the laws; but we owe a still higher duty to that eternal justice which gives just laws their sanction, and which has nothing but anathemas for such infamous enactments as the fugitive slave bill. That bill teems with abominations. It is unconstitutional, inhuman, infernal. It is a hideous monster that not only tramples under foot the Constitution and breaks down the safeguards of personal freedom, but wages a deadly war against every thing that gives worth and beauty to human nature. It must and will be spurned, hated, and treated as a savage enemy, as long as that nobleness of manhood, which is the only secure basis for law and order, continues to exist among us.

THE LATE CHIEF JUSTICE WELLS.—The death of Judge Wells will be universally regretted, and by no class of persons more than the Anti-Slavery men of the State. They gratefully remember the manly indignation which he exhibited at the chaining up of the Court House during the trial of Simms, and his consistent and uniform condemnation of slavery and the schemes of the slave power and its allies, the pro-slavery parties. He was understood to be fully of the opinion that the Fugitive Slave Bill was unconstitutional, as well as wicked and inhuman; and it was earnestly desired by many men that the question might in some way be brought before him for a decision upon that point.

Judge Wells, we believe, was a native of Greenfield, where he resided most of his life, and until he was appointed Chief Justice of the Court of Common Pleas, in 1844. He was always considered one of the best lawyers in the western part of the State, but did not become prominently known in this section until the celebrated trial of Wyman, (of the Phœnix Bank) which took place at Lowell in 1843, we believe, on which occasion Mr. Wells acted as prosecuting officer, and argued the case for the Commonwealth with great ability. Mr. Webster was counsel for Wyman, and during the charge of Judge Allen to the jury, he interrupted the Judge, with his usual overbearing manner, and was compelled to sit down, and afterwards to apologize for his rudeness. Wyman was convicted. Mr. Wells was soon after appointed to a place on the bench. He was not very popular as a Judge, but universally respected for his sound legal learning and kindness of heart.

JURIES.—We presume that Hallett will forthwith bring to the attention of the Government the alarming condition of things in this city. Judge Curtis's charge, and B. F. Hallett's earnest and assiduous efforts before a tribunal where only an *ex parte* case is required, have failed to secure a *majority* of the jury in favor of indicting Parker, Phillips, and Howe. Before this time, Hallett has probably telegraphed that we are in a state of war, and we shall soon hear from Cushing, whether or not the President is "up to the occasion."

It is no part of our business to interfere in this affair, but a practical suggestion or two may not be out of place.

We submit, that if the question of the liberty of an alleged fugitive can be decided by a Commissioner, without a trial by jury, then the question of the guilt of a person who attempts a rescue of the slave, or urges others to the attempt, ought to be decided in the same way. We are no lawyer, but this looks reasonable. Is there not time, before Congress adjourns, to pass a bill supplementary to that of 1850, which shall allow any of our patriotic Commissioners to settle this question without the intervention of a jury?

If this suggestion cannot be complied with, then we must have a new mode of selecting the juries. For the *Grand Jury*, a body of custom-house officers might be selected, as it is possible that a *majority* of that class of persons would be tractable. But as there are quite a number of clever fellows among them, they could not be trusted to *try the cases*, where a unanimous verdict is required. The only perfect remedy we can suggest is, to allow the jury to be selected by the Judge, the District Attorney and the Slave Commissioners; or else to have "a tribunal of slaveholders" as they have in the South for the trial of some kinds of offences. We should think it safer, however, to trust Hallett, and the gang he could buy up, than a jury of slaveholders, one or two of whom might, perhaps, be troubled with consciences.

The case is full of perplexities.

From the Washington Union.

Abolition Mob and Murder in Boston

The Constitution and Laws of the United States set at defiance.

"The fugitive slaves of the United States are among the heroes of our age. In sacraficing them to this foul enactment of Congress, we should violate every sentiment of hospitality, every whispering of the heart, every dictate of religion. There are many who will never shrink at ANY COST, and notwithstanding all the atrocious penalties of this bill, from efforts to save a wandering fellow-man from bondage; they will offer the shelter of their houses, and, if need be, *will protect their liberty by force*

From a humane just, and religious people, shall spring a public opinion to keep perpetual guard over the liberties of all within our borders; nay, more, like the flaming sword of the cherubim at the gates of Paradise, turning on every side, it shall prevent any slave-hunter from ever setting foot in this Commonwealth. Elsewhere he may pursue his human prey; he may employ his congenial bloodhounds, and exult in his successful game, BUT INTO MASSACHUSETTS HE MUST NOT COME"—*Extracts from the Speech of Senator Charles Sumner, in Boston, October of* 1850.

On Friday morning last the Nebraska bill passed its final reading in the Senate of the United States, but not before Charles Sumner, the author of the above deliberate invocations to violence against the laws *he had deliberately, and before God, sworn to obey*, had proclaimed his determination to have the fugitive-slave statute repealed, and had solemnly pronounced the maledictions of the New England church against it, and had asserted, in terms, that the law should never be executed in Massachusetts. He and his confederates had previously organized the New England clergy against the Nebraska bill, in an address full of wilful falsehoods and incendiary appeals, and it was fitting that he should close his tirade against that measure, on Friday morning, first, by defending the three thousand ministers of the Gospel

[From the Courier.]

WHERE ARE WE GOING?—An admirable editorial article in the Journal of last Saturday on "The Military and the Citizens," may well be followed by some reflections on the state of feeling towards the Union, now existing in Massachusetts among large classes of her citizens. We do not wish to deny,—we could not do so if we would,—that one of the late measures of Congress has produced this feeling. We did everything in our power to warn the country against the consequences of that measure, and to prevent its passage. Perhaps it is not even now too late to repair the wrong that has been done. But before the means by which this is to be done can be considered, we have to inquire soberly where our resentment against an unjust and unwise act of legislation is carrying us, and whether it may not deprive us of all power to restore the compromise of 1820 to its true position.

The evidence exists all around us, that there is now a strong disposition here in Massachusetts to treat the government of the United States, at least in regard to one of its functions, as if it were a foreign power, whose authority over us we may and ought to bring to the test of actual resistance. We refer, of course, to the feeling existing in the matter of restoring fugitives from service to the states from which they come;—and we say that this feeling amounts in large classes of persons, to such a state of hostility towards the authority of the Union, as leads them to seek for palliations of their own and others' conduct in a fancied analogy to the conduct of our fathers towards the government of George III. We have the evidences of this, not only in the acts and sentiments of the fanatics, whose headquarters are to be found in a building from which dangerous missiles have been thrown upon the conservators of the peace, but we have it in the efforts made by presses not conducted by fanatics to excite bad passions against the citizen soldiery, who have patriotically discharged a duty appropriate to their organization and required by laws which we ourselves have enacted. We have it in the numerous pulpits, which are now preaching the doctrine that a moral question has arisen, of so deep and transcendant a character, that we are required by it to approach the alternative of a dissolution of the Union; pulpits which inculcate the idea that the act of the government, in transferring a man by process of law, and on the clearest evidence, from the State of Massachusetts, where he does not belong, to the State of Virginia where the Constitution of the country places him, is an act of the last degree of oppression and indignity to us and our moral sense against the repetition of which we ought to protect ourselves, at every hazard and every cost. We have it in the proceedings of large public meetings, of which at least two have been held—one in this city, in Faneuil Hall, and one in New Bedford—at both of which open resistance to a law of the United States has been counselled; and at the latter of which, those who are the subjects of that law have been advised to arm themselves and "shoot down" the officers of the government. Finally, we have it in the arguments and excuses with which a considerable part of the press is teeming, which represent our oppressions and indignities as the same in kind, and as fit to be encountered by the same means, as those which drove our fathers into revolution.

But lest we should be supposed to have misrepresented the state of things about us, we will cite a single specimen of the tone of the pulpit; and we take it from a sermon preached by one of the ablest and best men among us, a man of sincere piety and wholly free from fanaticism—the pastor of one of the most intelligent and cultivated congregations in this city—the Rev. Dr. Gannett. This gentleman, without any excitement, but in language of deep feeling, soberly and carefully measured, has put to his hearers and to the public, what he allows to be the "fearful issue," of a dissolution of the Union—as an issue which "conscience and duty," "self respect and our holiest persuasions" call upon us to embrace, rather than have a law executed here, which requires the restitution of fugitives from service coming to us from other states. We take the following extract from his sermon:—

Fourthly, we may proceed to rescue our own soil from being trampled by those whose attempts to reclaim their fugitive servants are conducted in a manner to wound our sensibilities and provoke our passions. I repeat, that while a law stands in force, we must either consent to its execution or bear the penalty of disobedience But when the execution of that law not only inflicts a pang on our moral nature, but is made doubly painful by the frequency and zeal with which it is carried into effect, we cannot, or if we can, we ought not to fold our arms and close our lips in patient acquiescence. The principle of the present fugitive slave law was embodied in the similar act of Congress passed more than half a century ago, but for more than fifty years the South was content that the act should remain comparatively inoperative; let it take the same course now, and the North would acquiesce in the legal validity of a claim seldom enforced. But if the South evince a determination to put Northern feeling to a trial on this question whenever it shall have an opportunity, Northern men will not consent to witness often such scenes as we were made to endure a few days since. The question will not be simply, whether a law shall be executed or be resisted; a deeper question will arise, when the Southern master shall use the free States as the ground on which to assert the immaculate character of slavery. The alternative will then present itself, whether we will become ready participants in upholding a system which we abhor, or will seek a dissolution of the bond which holds us and the South together. This is sad language, and fearful. I know what it means, and what it suggests. But the facts which wring such language from us are sad and fearful. I have loved the Union as dearly perhaps as any one. I have clung to it as the guide and hope of the oppressed nations of the world. I have lost friends and been traduced—that is no matter, except as it shows how I have spoken, because I maintained that the Union must be preserved at almost any cost. I say so now. But it may cost us too much. If every manly, and honest and Christian sentiment must be subjected to continual indignity, then will sober men, who have loved the Union and clung to it, ask whether a peaceable separation, with all its prospective issues, would not be preferable. We do not want what has been justly styled "the characteristic of Southern civilization" made familiar to our eyes, and we shall not be able, I think, to bear it. Not as threatening or braving the South, do we so speak. We believe the Southern part of our country would suffer more than we from disunion. But the relative prosperity of the two sections cannot be permitted to decide a question of such moral import as this. In sorrowful, not in passionate emphasis we say, that if the South insist on making the North the scene of its activity in maintaining an institution from which the conscience and the heart of the North revolt, it will compel us to ask in serious and solemn deliberation, is the Union worth preserving on that condition?

We are of course, all called upon to examine for ourselves the soundness and correctness of these and similar sentiments, now so much agitated.

Most persons we imagine, will find that they can best approach the solution of this, as well as of any other moral question, by sweeping away from it all false analogies and impracticable courses of conduct, which only tend to shut out the truth.

Proceeding in this way, we shall probably find that the sooner we get rid of the notion that there is any resemblance between our relations to the government of the United States, in this matter, and our former relations with our mother country, the more freely and truly will our moral perceptions be able to operate. In the first place, we were never represented in the body which passed the Stamp Act, or the Boston Port Bill, or the other obnoxious measures that produced the revolution; they had the authority of law for us only just so far as they could be enforced by the executive, who was the common sovereign of that country and of this, we denying all the while that Parliament could legislate for the Colonies.—Those measures, therefore, when sought to be enforced here, were acts of mere arbitrary power, and in no sense acts of legislation to which our express or implied assent could be said to have been given.—But the obnoxious act of which we are now complaining is a legislative act of a government which we helped to create, and in every branch of which we have been constantly and fully represented.

It is the act of our own government—of a government that is as absolutely and exactly ours as the government of our separate state is. Whether our particular votes were or were not given to it cannot make it any the more or any the less binding upon us as law, in the making of which we were represented.

but it is of great significance that the thing which this law undertakes to do—the rendition of fugitives from service—was deliberately and solemnly stipulated and promised by us, as a thing that should be done, in a convention in which we were fully represented, and in which every one of our votes was given to it, when the instrument which constitutes the government was framed and signed. It is manifest, therefore, that when a moral question is raised, whether we should be justified in breaking not merely an implied promise, but a direct and actual promise made through our representatives in the Convention that framed the Constitution, that question can receive no aid from our former conduct in a case where we were never represented at all, and where no promise, either express or implied, was ever admitted by us to have been made.

In the next place, we may as well disabuse ourselves of the notion of "peaceable separation." There is no such thing possible under the sun. The separation of these colonies from Great Britain was a possible thing, but it was *not* "peaceable." The separation of a state from this Union is a moral and physical impossibility. How is it to be done? Is the government of the United States to be expelled from our territory;—its courts to be prohibited from sitting here; its revenue not to be collected in our ports; its mails to be stopped; its dock-yards and arsenals to be seized? If we could be mad enough to think of such a mad project, one week might produce occurrences, from the effects of which ages might be requred to relieve us. But perhaps some earnest and conscientious person may have a dim idea that a state might separate from the Union, by consent. Such consent could not possibly be given. The United States could not tolerate the seperate and independent existence of any State, at least on the Atlantic coast, *and least of all in the case of Massachusetts.*

Probably, however, what Dr. Gannett means by "peaceable separation," is the division of the United States into a northern and Southern confederacy, by mutual consent. To make this possible and to make it "peaceable," several things must concur, not one of which is in the smallest degree probable. In the first plnce, there must *be* a "North" on that question, and it must be a unit. Suppose the free States were assembled in convention to-day, and the naked question were put, "will you surrender fugitive slaves, or will you dissolve the union, break up the government, and take the consequences?"—How many of the free States would be found voting for the last alternative? How many would *not* be found voting to adhere to a stipulation, which they made with complete unanimity when the Constitution was formed? In the next place, in order to render such a "peaceable separation" possible, there must be conditions not one of which would be likely to exist. There must be a possibility of living side by side with the new slave-holding confederacy, without treaty stipulation of the same purport. There must be a possibility of dividing the common property of the union, upon fair and equal and *satisfactory* terms; terms that would leave no chances for future bickerings, no opportunity for future strife. We have just seen an eclesiastical body, that has been rent in twain by these sectional controversies, and now stands divided into a "church North" and a "church South," obliged to resort to the final arbitrament of litigation, in order to make such a distribution of their common property. Does any man imagine that two separate nations could be placed in precisely the same situation, without being obliged to resort to the dread arbitrament of the sword? The two branches of that religious communion, once bound together by one of the strongest of all religious organizations, and by the ties of the purest Christian love, separated with every "peaceable" demonstration, every expression of mutual good will. In sorrow, not in anger, did they rupture their great and

whom he and other domestic demagogues had deceived into the belief that it was their duty to speak "in the name of Almighty God" against an act of legislation; and, secondly, by invoking the populace of New England TO RESIST THE LAW OF CONGRESS TO THE DEATH.

So infamous was this speech of the abolition agitator and incendiary that Judge Douglas rose in his place, and in substance declared it to be an invocation to civil war; predicting that if blood was shed in consequence of the harangue, the dark deed would be laid at the door of Sumner; and declaring his opinion that in the event of a rising against the guarantees of the constitution in Boston, he hoped that the punishment would not fall upon the misguided instruments of fanaticism, but upon the less and inhuman instigator to riot and to murder This rebuke, terrible and sudden, and overwhelming as it was, was felt to be fully deserved by nearly every American citizen on the floor of the Senate

This was on Friday morning, and on the following Saturday morning, the appeals of Senator Sumner had produced in his own city of Boston their appropriate and expected results The following despatch, received in this city yesterday morning about 12 o'clock, tells the story:

"In consequence of an attack upon the court-house last night, for the purpose of rescuing a fugitive slave under arrest, and in which one of my own guards was killed, I have availed myself of the resources of the United States, placed under my control by letter from the War and Navy Departments in 1851, and now have two companies of troops, from Fort Independence, stationed in the court house Everything is now quiet. The attack was repulsed by my own guard.

WATSON FREEMAN,
U. S. Marshal, Boston, Mass."

In reply to this message, President Pierce, with characteristic promptitude, returned to Marshal Freeman the following emphatic answer:

"YOUR CONDUCT IS APPROVED. THE LAW MUST BE EXECUTED"

YAZOO CITY, FRIDAY, JUNE 16,

THE WHIG.

PUBLISHED EVERY FRIDAY MORNING BY
MRS. HARRIET N. PREWETT,

☞ Great excitement was created in the vicinity of the Park, New York, on the 1st inst., by the rumor that another fugitive slave have been arrested. A crowd was being harangued in the Park, and the rush was tremendous. It was finally ascertained that the orator was a lawyer, who was laboring to place himself right, in regard to a difficulty he had had with another lawer in the Marine Court. Verily, Gotham is a great city.

FUGITIVE SLAVE EXCITEMENT.

Great Meeting at Faneuil Hall, Boston—Attack on the Court House. Etc.

Boston, May 26, 1854.

Immense excitement prevailed in this city this evening, on account of the arrest of Burns, the alleged fugitive slave.

The call for a meeting in Faneuil Hall, attracted hundreds more than could get inside the building.

The principal speakers were Wendell Phillips, Theodore Parker, and Francis W. Bird.—The tenor of the speeches was highly inflammatory, denouncing the Fugitive Slave law as one which should not be obeyed and counselling open resistance.

About half past 9 o'clock a motion to adjourn to the Court House at 9 o'clock to morrow morning, when an examination of Burns take place, was carried by acclamation. Immediately thereafter a person rushed into the hall, exclaiming, "There's a crowd of negroes in Court square attacking the Court House, where Burns is confined."

This announcement caused the immediate rush of from two to three thousand excited people to the Court House square. An attempt was at once made to break open the court house doors, on the east side, which owing to the strong fastenings, failed

The leading rioters then went to the west entrance, and, with a heavy plank used as a battering engine, stove through the panels of the door, and broke some windows Numerous pistols were fired, and the mob became formidable.

The Centre Watch-house being in the immediate vicinity, a posse of determined watchmen dashed in, and succeeded in arresting eight or ten of the leading rioters, after a desperate conflict.

The prompt arrest of the ringleaders suppressed further violence, and an increased police force, who were soon after on the ground, and stationed at the several entrances to the court house, will probably preserve quiet for the night.

Burns is confined in an upper room of the court-house. The officers having charge of him are well armed, and had the mob gained an entrance, it is doubtful if they could have carried him off.

Col. Smith, who claimed Burns as his property, was arrested to day, on a charge of attempting to kidnap a citizen of Massachusetts, and is held under bail.

The examination of Burns takes place at 9 A. M. to-morrow. It is openly asserted that if the decision is against freedom, he will be forcibly rescued.

Eleven O'Clock, P. M.

From five hundred to eight hundred remain in the court-house square, but no further violence is anticipated to-night.

STILL LATER.

TREMENDOUS RIOT!

United States Marshal Shot Dead!

Military Called Out—Militia in Arms—Riot Still Unchecked.

Boston, May 27—A terrible and most disgraceful riot occurred here last night. After the meeting at Faneuil Hall, where the people became excited to a high pitch, by inflammatory Abolition speeches crowds collected together in squads at the corners of the streets, which soon ripened into a furious mob, who attempted to arrest Burns, the alleged fugitive slave. A desperate conflict ensued between the rioters and authorities, in which the Deputy U. S.

Marshal was shot, and died in a few minutes. Several others were seriously, and some, it is feared, fatally injured. The excitment continued all night, but the mob failed in rescuing Burns. The military were ordered out at 9 o'clock this morning, who up to this hour have maintained order. The militia are also under arms, and every effort is making to maintain the peace. The examination of the case is now going on, and the Court House is surrounded by at least five thousand persons independent of the military. The excitement is intense, and it is feared that the end is not yet Business is almost entirely suspended, the whole city disturbed.

Second Despatch.

Boston, May 27, 12 M.—The examination of the fugitive Burns still continues, and the excitement increases. Several of the rioters have been arrested and held for trial. A detachment of the U. S. Marines, under Lieut. Bird, are on duty in the interior of the Court House, parading the halls, passage ways, &c. The multitude outside continues to increase, and has now swelled to probably ten thousand, and increasing. Mayor Smith addressed them, and after which the riot act was ordered to be read.

Third Despatch.

Boston, May, 27 12 3 4 P. M.—James Batchelder, is the name of the U. S. Depnty Marshal who was shot. He leaves a wife and an interesting family of children to lament his untimely end.

The entire watch and police of the city are on duty.

The Independent Cadets of Boston, and the Boston Light Infantry under Captain Rogers, are quartered in the City Hall. Col. Wright's company of Light Dragoons are also on hand, and others are preparing to come out.

The more moderate opponents of the Fugitive Slave law denounce the meeting last night.

The counsel of Burns, the fugitive, has asked for a continuance of the examination until Monday.

The doors and windows of the Court House, where Burns was supposed to have been confined, were broken in last night.

BLOODSHED IN BOSTON—PARTICULARS OF THE MURDER.

The following is a correct account of the murder as detailed by eye witnesses of the awful tragedy. Mr. James Bachelder a man about 35 years old, was in the inside of the court house, and when the sounds of parties forcing the door were heard, came down to the lower passage way and approached the door together with others in order to prevent the mob from entering the building. Batchelder reached the door at the moment it was burst open, and before he had spoken a word, or had time to act, a pistol was discharged by some one on the stone steps on the westerly side of the building, the contents taking effect in his abdomen, severing the main artery. Mr. Batchelder exclaimed, "I am stabbed," fell back into the arms of a companion, an ex watchman, who, by the aid of others, conveyed him to the Court room, where he died almost instantly, and without uttering any other expression. Two gentlemen saw the flash of the pistol, but it is hardly probable that the murderer has been a rested.

Mr. Batchelder leaves a wife and one child to mourn his loss. He was in the employment of Col. Peter Dunbar, truckman, and resided in Charlestown. The body was conveyed to the basement of the building, and coroner Smith was called and held an inquest. The wound presented a ragged appearance as though caused by one or more slugs fired from a pistol.

The murder was not generally known by the mob, and when it was stated that a man had been shot, one of the ringleaders of the rioters replied, with great emphasis, "there will be one the less to kill to morrow." The Columbian Artillery, Capt. Cass, and Boston Artillery, Capt. Evans, in full ranks, appeared in compliance with the Mayor's order, and entered in the City Hall.

The windows on the west side of the Court House are nearly all broken, and the door on that side torn from its hinges. It is said that a man on the outside was wounded, and another had his face badly cut.

Fears are entertained that the worst feature of this excitement has not yet transpired, as the most determined opposition to having the fugitive slave carried away is manifested.

Capt. Morrill states that when he rushed into the crowd to make arrests, several pistols were fired upon him, some of them evidently being loaded with balls; fortunately he was uninjured.

THE FUGITIVE SLAVE CASE.

The Latest From Boston.

Progress of the Riot—Preparations for to day—Great Excitement Among the People. Etc

Boston, Sunday evening.—The case of Anthony Burns the alleged fugitive slave continues to strongly agitate the public mind. Many persons openly denounce Wendell Phillips and Theodore Parker as the the direct instigators of the death of Batchelder, and indications of an organized attempt to lynch them are strong so as to induce the Mayor to detail a public force for the protection of their persons and property.

There has been no outbreak to-day. Court square was cleared last night. And the Court House surrounded with a cordon of ropes A detachment of one hundred United States troops is quartered in the Court House, and two companies of the Boston military are stationed at the City Hall.

The following handbill has been extensively circulated to-day, in contradiction of a report that Col. Suttle had sold Burns:

The man is not to be brought! He is still in the slave pen in the Court House! The kidnapper agreed, both publicly and in writing, to sell him for twelve hundred dollars. That sum was raised by eminent Boston citizens, and offered to him; but he then claimed more, and the bargain was broken off. The kidnapper breaks his agreement, although the United States Commissioner advised him to keep it. Be on your guard against all lies.—Watch the slave pen. Let every man attend the trial

Printed notices were also left in every church pulpit this morning, requesting that prayers be offered for the escape of Burns from his oppressors.

The abolitionists are very active in getting up secret meetings. Large delegations are expected to morrow from Salem, Worcester, New Bedford, and other places.

One thousand pistols, principally revolvers are said to have been sold by dealers on Saturday. A very large crowd remained in the vicinity of the Court House all last night.

The following is the copy of a circular which has been widely circulated in the country towns:—

Boston, May 27, 1854.

To the yeomanry of New England! Countrymen and brothers! The Vigilance Committee of Boston inform that the mock trial of the poor fugitive slave has been further postponed to Monday next, at 11 o'clock A. M You are requested, therefore, to come down and lend the moral weight of your presence, and the aid of your counsel, to the friends of justice and humanity in the city. Come down, then, sons of Puritians, for even if the poor victim is to be carried off by the brute force of arms, and delivered over to slavery, you should at least be present to witness the sacrifice, and you should follow him in sad procession, with your tears and your prayers, and then go home and take such action as your manhood and your patronism may suggest. Come then, by the early trains on Monday, and rally in Court square Come with courage and resolution in your hearts, but this time with only such arms as God gave to you.

No signature is attached to this document.

SECOND DISPATCH.

Excitement Continues—Funeral of the Victim.

A collection of from five hundred to a thousand persons has been in the vicinity of the Court House all day, up to the present hour. All the main entrances of the building are guarded by the U. S. Marshal's officers, and but few persons were admitted. All the doors and passages leading to the room where Burns is confined, are occupied by the Unit-

ed States soldiers. The Court House resembles a garrisoned fortress.

A Sabbath day exhibition of his kind creates a feeling among our more quiet citizens, which to judge from its open expression, is anything but favorable to the fugitive slave law, as it is being enforced here.

Funeral of the Victim of the Riot.

The funeral of James Batchelder, who was killed in the slave riot on Friday night, took place from Charlestown, this afternoon. There were but few persons present except the immediate friends of the family.

Sill Later—The Fugitive in Court—Examination—Will be Remanded.

Boston, Monday Noon —Burns, the alleged fugitive slave was brought into the Court house this morning guarded by a strong military force. A large number of excited persons were oustside, who were heard occasionally to utter incendiary expressions. The State military are out strong, and have agreed to protect the city. The United States soldiery form a strong guard in and around the Court honse. The crowd of idle spectaators, abolitionists negroes, &c outsied, is large —No attempt, however, at rescue, has thus far been made, and it is believed there will not be, as there is a general understanding that the military will fire upon the offenders at the very first indication of disorder.

The examiuation of Burns continues, and up to this time the evidence of his identity is positive.

There seems to be no doubt that he will be remanded The rioters appear fully aware that bloody work will ensue if they attempt further outrages.

Second Dispatch.

Boston, Monday evening—The further examination of Burns has been deferred till Friday next The excitement has not at all abated, though the rioters are restrained from violence be the military it being well known that they have received orders to fire in case of any disturbance.

Family of the Murdered Man.

Mr. Batchelder, who was killed, resided on Front street, Charlestown. His wife knew nothing of his death until this morning, when the announcement was made to her by a lady who saw the account of the occurence in the morning papers. She happened to be in the front yard, and immediately fainted and was taken into the house. He leaves no children.

Arrest and trial of the Rioters.

Boston, Sunday evening—Nine persons who were arrested last night were brought up in the Police Court this morning, to answer a charge made by Luther J. Ham, Deputy of Chief of Police that on the night of the 26th of May they assaulted James Batchelder with fire-arms, wounding him so that he died, and that they did therefore commit the crime of murder.

The names of the accused are A J Brown, John J Roberts [colored,] Walter Phœnix, [colored] John J Westerly, [colored,] Walter Bishop, (colored,) Thomas J Jackson, (colored,) Henry Howe, Martin Stowell, and John Thompson. Some of them are quite young, others are old, and one being grey headed.

Mr. Ham, for the prosecution, said that the Government would not probable be ready before the middle of next week to proceed to the examination of the case. There wes quite a number of witnesses, some 21 in number.

Mr. C. G. Davis, for the defence, inquired if some of the prisoners was not arrested before the deadly assault upon Mr Batchelder took place.

The Court said that even if it were so, it might appear upon examination that they were accessories before the fact.

Mr Davis said that there was one of the prisoners who was merely charged with putting out a gas lamp a long time before the fatal attack occurred.

Mr Ham said that he expected t prove that there was a concert of action among the prisoners from the time that the light was put out until the death of Mr. Batchelder.

Mr Ham also said in reply to a statement by counsel for defence, that the complaint was made for an unbailable offence at a very late hour on Saturday, that he had used his utmost diligence in getting the matter before the court, having to obtain the advice of legal gentlemen how to proceed. The Court endorsed the statement.

He also said that he would endeavor to be ready by Tuesday next at 11 *A* M, but if not ready then he would ask for further postponement. This was rather reluctantly acceded to by the counsel for defendant, and the prisoners were committed without bail until that time.

The Fugitive Slave Case in Congress.

On Friday in the House of Representatives Mr. Faulkner moved to suspend the rules to enable him to introduce a resolution instructing the Judiciary to inquire into the facts connected with the recent death of James Batchelder, United States Deputy Marshal, who is alleged to have been murdered on Friday last, while engaged in enforcing the laws of his country against a violent and treasonable mob in Boston, and if the committee find that he was killed in the performance of his duty, that they be instructed to report a bill making proper and and liberal provision for his widow and children.

Mr Jones of Tennessee, asked if the gentlemen had any intimation that the administration cannot execute the same,

Mr Faulkner replied that the resolution was one merely for the relief of the widow and children of Mr Batchelder.

Mr Giddings hoped if the resolution was to be debated the rules would be snspended:

Mr Farley moved a call of the House, which was going on at the last advices.

Excitement at the Capitol—Position of the President.

Washington, May 28.

Great excitement exists in Alexandria and Washington in regard to the riot in Boston. Popular indignation is especially directed against Messrs. Sumner, Giddings, and one or two other members.

The President is determined to have the laws enforced with alacrity, if not with cherfulness, and I have reason to believe has transmitted orders for a sufficient force to sustain the civil power in Boston, and secure the slave at all hazzards.

House rejects the Resolution.

A later dispatch says the House refnsed leave to Mr. Faulkner to offer a resolution to compensate the widow of the Deputy Marshal killed in Boston by the abolitionists.

The Cabinet and the Slave Riot.

Washington, May 28, P. M.

As neither Mr. Marcy nor Mr. Guthrie were at Church to-day, it is presumed that an informal cabinet meting was held to receive despatches from Boston in regard to the slave riot, and act accordingly, in supporting and directing necessary measures of defence adopted by the U. S. Marshal. Depend upon it, the administration will sustain the laws promptly and fully.

Excitement at Syracuse.

Syracuse, May 27th.

The intelligence from Boston, in regard to the fugitive slave case, creates great excitement here. Knots of people are discussing the subject at the corners of the streets—and last night 2000 men guarded the railroad depot till 10 o'clock, at which hour the "Jerry Rescue" tocsin sounded, as the train came down; but the cars were searched in vain for the expected fugitive.

STILL FURTHER FROM BOSTON.

Incendiary Hand Bills—Attorney General Attacked.

Boston, May 30 —Incendiary handbills have been circulated principally amongst the colored persons, setting forth resolutions to rescue Burns, the fugitive, at all hazards

Attorney General Hallet and his son, whilst out riding in a carriage late yesterday afternoon, were

assaulted by a lawless mob known to be of the abolitionists and anti fugitive party. Stones and other missels were thrown at them, but they fortunately escaped uninjured.

The further examination of Burns has been deferred till Friday.

The Voice of Indiana!—By reference to our telegraphic column it will be seen that, at a State convention of the democrcy of Indiana, resolutions approving the Nebraska-Kansas bill have been adopted by an almost unanimous vote—421 to 13!—*Washington Union.*

What shall be done with Massachusetts?

The people of Massachusetts from the earliest settlement of the State to the present time, have been remarkable for superstition, Fanaticism, and Humbugs. During their Colonial history they were grieviously tormented with witches, and many of them were said to be under the immediate influence of the Devil. From present appearances we should suppose that Satan's influence had been on the increase ever since, and is now triumphant in the city of Boston. Riot, Robbery, Murder and Treason are now openly advocated in public meetings in Fanueil Hall, and Boston has frequently been under the control of a semi-savage Negro mob led by the Rev. Theodore Parker. It is strange that the clergy, who in other States, are considered leaders in every good work, in Massachusetts have generally been the instigators of persecution and treason, and the leaders in every species of Fanaticism that has disgraced the State. Theodore Parker and Wendell Phillips are the fit representatives of those who hanged the Quakers on account of their religion; burned old women for witches, and drove the Baptists from the State. As did their fathers, so would they do, if they could. During the last war with Brittain the Legislature of Massachusetts, Resolved that it was unbecoming *a moral and religious people* to rejoice at victories gained in such a war. The clergy of Massachusetts as usual denounced the Administration and declared that the gates of Heaven were closed against the war, and all those engaged in it. They also denounced the Mexican war, and called down the vengeance of Heaven upon our government for fighting the innocent Mexicans and Indians.—But their prayers have not been annswered, and all their predictions have failed. The people have discovered that they are lying prophets, who whilst they pretend to declare the counsels of Heaven, pour out the venom of their own wicked hearts. Massachusetts is now overrun by all sorts of fanatics, jugglers and mountebanks who infest every nook and corner of the State, as did the frogs the land of Egypt when under the chastisement of Heaven. In their public assemblies are mingled black and white, Priests and Atheists, strong headed women, and woolly headed negroes, in a transcendental hotch potch. There every thing that is held sacred in other places, is scoffed and ridiculed. The Constitution and Laws of the land, the Bible and the doctrines of the Christian religion, are all denounced, and even the name of the Most High is blasphemed by negro ruffians and brazen faced women, who glory in their shame. From the reports of the proceedings of their Conventions and public meetings any person would judge that a large portion of the people of Massachusetts were fit subjects for the straight jacket and the Lunatic Asylum. Nearly all the mobs, and ridiculous exhibitions in Syracuse, Buffalo, Chicago, and other places are off shoots from the Boston School.

It would be well for other parts of the United States if a wall as high as the tower of Babel was built around Massachusetts. There are no doubt many good people in the State who have hitherto kept it from destruction, but they are every day losing their influence, and like Lot and his family. they will soon have to leave the place or perish with the multitude. As for Boston, we advise every good man in it, to take his family and flee from the place.—Let Theodore Parker and his allies have the city, and henceforth let there be no intercourse between Boston and other parts of the United States. Let no man go there on any pretence, and let those that come from there be subjected to a quarantine, and be cleansed from the moral pollution of the place, before they are allowed to mingle with other people.

Latest News.

THE FUGITIVE SLAVE, BURNS, REMANDED—THE DIFFICULTY WITH SPAIN SETTLED, &c., &c.

Through the columns of that enterprising sheet, the Charleston *Standard*, we are enabled to give our readers the following important news items:

The Fugitive Slave at Boston—Burns remanded and started for home.

Boston, June 2, 1854

The United States Commissioner to day rendered his decision remanding Burns, the fugitive slave, to his master. This decision, though anticipated from the first, caused intense excitement among the abolitionists, but the large military force by which the negro was surrounded, effectually prevented any symptoms of an outbreak.

The slave was placed on board of the Revenue Cutter Morris, this afternoon, and sailed homeward. An immense crowd followed him to the wharf; but notwithstanding all the excitement none of his friends undertook to release him. Their designs have been frustrated, and they feel the defeat most keenly. Order has been completely restored in the city

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TWO MONTH NOTICES

TWO MONTHS after date, application will be made to the Court of Ordinary of Pike county for leave to sell, Rent and Jack, two negro men belonging to the estate of John Marshall, late of Pike county, deceased.

ELIZABETH MARSHALL, Exr'x.

April 21, 1854 47 9t

TWO MONTHS after date application will be made to the Ordinary of Jasper county, Ga, for leave to sell the real estate belonging to the estate of Mary Jane Wimbish, late of said county, deceased.

WM. B. WIMBISH, Adm'r.

May 6, 1854. 50 2m

SIXTY days after date application will be made to the Court of Ordinary of Wilkinson county for leave to sell all the Land belonging to the estate of Zephariah John late of said county, deceased.

JOHN EADY, Adm'r.
MARTHA EADY, Adm'x.

April 29, 1854. 48 2m

SIXTY DAYS after date application will be made to the Court of Ordinary of Pulaski County for leave to sell Wash, a negro boy belonging to the estate of Augustus R. Taylor, minor of Robert N. Taylor, dec'd.

EZEKIEL H TAYLOR, Guardian.

May 1st, 1854, 49—9t.

TWO MONTHS after date application will be made to the Court of Ordinary of Campbell County for leave to sell the negroes belonging to the estate of James H. Knox, late of said county deceased.

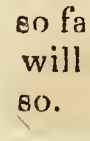
WM. B. JACKSON, Jr, Adm'r de bonis non.

May 1st. 1854. 49—9t.

SIXTY DAYS after date application will be made to the Court of Ordinary of Baldwin county for leave to sell all the Lands belonging to the Estate of Benjamin Bowers late of Baldwin county, deceased.

DAVID HUDSON, Adm'r.

May 3, 1854. 49—9t



$100 REWARD.—RUNAWAY from the subscriber, near Forsyth, Monroe county, Ga., a Negro man named NED, about 22 years old of dark complexion, about 5 feet 8 inches high, weighs about 140 or 150 pounds, he left my house the 18th of February last, the last time heard from him he was in Lythonia DeKalb county. He has probably been decoyed off by some white person. I will give *one hundred dollars Reward* for the delivery of the negro in some safe Jail where I can get him, and the apprehension of the person harboring him, with proof to convict him; or I will give *fifty dollars* for the delivery of the boy to me in Forsyth, or in any safe Jail in the State, so I can get him.

JOHN D. McCOWEN.

Forsyth, April 26, 1854. 48 tf

Do We buy Boston Goods?

This question is pertinent, and every citizen trading in Milledgeville has a right to put it, and know the truth. Boston has long since become more famous (rather infamous) on account of her disgraceful violation of the Laws of the land, than for her monuments, commemorative of her connection with some of the proudest deeds that give immortality to the Revolution.—Too long have the profits of slave labor been applied to fill the foul mouths of the Demon of Abolition. This is an evil that must be remedied, if the Southern people ever expect to have their rights admitted, and their property respected by the North. The city of Boston is covered all over with the slime of Abolition. Nothing good can come out of her; and if Southern Merchants continue to buy their goods from Boston, their customers here sh[illegible] know it; and so far as we can give publicity to the fact, it will afford us the greatest pleasure to do so.

More Murder among the Puritans.

We record to-day another disgraceful mob in Boston, by which an officer lost his life, and other deeds of *higher law* infamy were perpetrated by free white men and negroes, in defiance of the laws of the United States, and the municipal laws of the city where the crimes were committed. These diabolical outrages will continue to disgrace the country, and cover the city of Boston with a load of infamy, until the disorder is rightly treated. It may be very proper to hang the lawless miscreants who head the mob, and murder public officers in the discharge of their duty, but if the instigators, the black-hearted villians, who harangue excited meetings, and counsel resistance to law, are permitted to go unwhipt of Justice, there will be no end to mobs and mob law. Then, the only way to reach the evil, is to probe the wound to the bottom, and remove the exciting cause. By stretching the necks of a few Theodore Parkers and Wendell Phillipses, the evil will be effectually abated. They are the murderers, they the criminals, let them swing as high as Haman.

Adv[illegible] 26.

USE OR ABUSE OF THE MUSIC HALL.—We publish in another column a letter which has been addressed by Thomas B. Curtis, Esq., to the Directors of the Boston Music Hall, who are to hold a meeting this afternoon for the purpose of filling the two vacancies in their board caused by the resignation of Messrs. Charles P. Curtis and Charles H. Mills, and, it may be, of acting further upon the proposition to decline renewing the lease of the hall held by the "Twenty-eighth Congregation," when it shall expire. We believe that the use of the hall by that society was not contemplated when the money was subscribed for the stock. It is well known that the subscription to the stock was filled with difficulty, and had it been announced that the hall was to be used for this purpose, foreign to that implied in the name, the hall would very likely never have been built. Certainly not by the existing corporation. At least, those gentlemen who have been personally affronted, through their nearest friends, by the language used there on Sundays, have a right to complain of the appropriation of their funds in this unexpected way. The subject is thus properly brought to the attention of those in whose hands the decision lies, and we trust it will receive the consideration which its importance deserves. We can easily see, however, that there may be room for a difference of opinion on the expediency of passing a vote at the present time refusing to renew the lease, which expires in November.

LETTER FROM MR. CURTIS TO THE DIRECTORS OF THE MUSIC HALL.

To Henry W. Pickering, Esq.; Robert E. Apthorp, Esq.; George Derby, M. D.; J. B. Upham, M. D; and E. D. Brigham, Esq., Directors of the Boston Music Hall.

GENTLEMEN,—Allow me to offer for your consideration, a few remarks which I conceive to come not improperly from me, as one whose interest in the "Music Hall," has been constant from the first—nor solely in a pecuniary view, for I engaged in the project on widely different grounds, and with other expectations from the undertaking than those of profit.

At a time when great discouragement was felt by its originators, respecting the success of the plan for erecting a suitable "Music Hall," in Boston, the late Jonas Chickering called upon me and stated what was desired, the obstacles already surmounted, and those yet to be met.

The sum subscribed was far short of that required, and several persons, who were counted upon, failed to give their support.

Mr. Chickering urged the need of such an edifice for our community, its effect in stimulating a love of music, and, in attracting here Artists of a high class, to raise and refine the standard of taste, for the great audiences which would there find ample accommodation. He dwelt also upon the *moral* influence derived from an extended cultivation of Musical art.

Popular refinement, good taste and sound morality were to be thus developed. I need not recall more particularly all the inducements which that good man enforced with his peculiar and simple eloquence.

He said, finally, "If you will contribute five thousand dollars I will do the same, and that will make the thing sure."

In meeting his wishes, I felt that I was doing more than properly fell to my share, in assuming so much of this voluntary public burden.

If, indeed, he had stated to me that one of the earliest leases of the Hall was to be for a purpose so foreign to that proposed,—not for music, not for public improvement, but its reverse,—do you believe that I, that any considerate man would have subscribed a dollar, without guarding against such a perversion of the use of the building.

I claim that such a lease is a violation of the terms both implied, and expressed, upon which the Hall was built; that by it the original purpose is violated, defeated and annulled.

It is argued that no lease is refused to a tenant able to pay, unless he puts the "premises to uses legally indictable." As a proprietor I maintain that the present occupation is the more dangerous, because it is a nuisance not reached by the law.

For myself, I would have doubled my outlay rather than suffer this nuisance of the "Music Hall," and see its novelty and beauty joined to the notoriety of the preacher, to assist in attracting young and miscellaneous audiences.

At the time of the first annual meeting of the stockholders, I was in Europe, and I was unable to attend the recent meeting, but caused a motion to be made in my name, to terminate the lease to the "Twenty-eighth Congregation;" the adoption of which vote I had reason to expect by a large majority. I still believe that a majority of the proprietors as of the public, is with me in the hope that one who evinces want of loyalty to the institutions of God and of man, will not be permitted to continue under our roof his seditious harangues, and scoffing denunciations of the good and the great, both living and dead.

THOMAS B. CURTIS.

June 24th, 1854.

PRESENTATION TO MR. HAYES.—Quite a large audience assembled at the Tremont Temple, on Monday evening, to witness the presentation of a silver salver, and a purse of two hundred dollars to Mr. Joseph K. Hayes, the ex-Captain of Police, who so nobly resigned his office rather than assist in the rendition of Burns. The meeting came to order at eight o'clock, when Chas. M. Ellis, Esq., rose, and in behalf of the Committee made the presentation, with the following remarks:—

Mr. Hayes:—At the request of this Committee, I have the honor to present to you this purse and this salver, as tokens of respect and approbation of your resignation of your office.

They know that you have heard the general judgment of "well done." Men have taken pleasure in sending to you from distant places proofs of their regard. Woman, even, has publicly said to you as John Adams' wife said to him in a critical moment of his life, as she always says, "never fear; you have done as you ought." But, as you see by the names of the Committee, those whom they represent are your fellow-citizens and neighbors, gentlemen merchants, and members of all the various professions; Boston men, who ask leave thus to signify their sense of the justness of this act of yours. They offer you this, sir, feeling that there are men, as of old, whom gold cannot buy nor office seduce.

On this they have engraved, with a few words expressive of their sentiments, the letter by which you gave up your office the very instant you were ordered to step beyond the line of its duties. They like that, sir. They feel it to be just and noble. They know that you and your children will look to it with honest and manly pride.

There are occasions on which an act of mere duty is worthy of commendation. No doubt you did only what you thought you ought. The prompt, direct and simple form of this reply show that. If every man would, without casuistry, as decisively say, "I will have no lot nor part in such work," there would be a quiet end to it all. We wish to commend that example.

But this act was more than that. You would not suffer your office to be prostituted. That business gets most aid from what are the worst of abuses, acts done *under color of office.* The highest places in government lose their respectability when their powers are thus abused; and, when they are misused in sach a cause, fall into contempt, whilst the faithful and conscientious discharge of duty gives dignity to the lowest. This act of yours, and some that stand prominent in contrast with it, have made men feel that each member of the State must keep within the strict lines of his official duty; that, howsoever power may be acquired, the unlawful use of it is tyranny. It would be well, sir, if the President, and his advisers, courts, law officers, the Marshal, and many public functionaries, and ministers of the law, would profit by your example.

Nearly all of those who had watched the trial of poor Burns, who heard his doom, saw the slave-guard march from the Court House that had been closed so long, through State street, swept as if by a pestilence down to the vessel that under our flag bore him out of the Bay the Pilgrims entered, into captivity, would rather have looked on a funeral procession, rather have heard the rattling of British guns again. Sir, it will be a consolation to you that you did not, that you would not, lift your finger to lend the least aid to that spectacle.

You will remember, too, that you did your duty faithfully whilst you held your office, and did an act alike honorable to yourself and for the honor of the city and State in resigning it for the cause you did. This, too, will men remember. For this they thank you.

They thank you, also, for this act of yours as an assertion of the right and the performance of the duty to be held amongst the first in the eye of an American citizen, that of refusing to do what a man knows to be wrong, that of obeying the commands of his own conscience.

Men have passed, or will pass, on the various acts connected with the capture of Burns—the Virginia record, the organization of forces by the Marshal, the mode of seizure, the intervention of the Executive, the mode of proceedure, the inquisition held in a fortress, the orders to the police and military, the determination of the law, the weighing of proofs, the granting the certificate on the statement of one not Cato, and the mode of making and executing the order, which, though not elevated to the rank of a judgment, has an effect that no judgment ever had.

Sad, shocking, was the sight of the harmless, innocent victim of all that mighty machinery, as he passed down Queen's street and King's street all hung in mourning. Better to have seen the halter and the coffin for a criminal again paraded through our streets than the cutlasses and the cannon for him. As he went down to the dock into which the tea was thrown, the spirits that lingered about the spots he passed vanished and fled, whilst dire and frightful images arose in their place.

Sadder and more portentous was it to see that not one form was left, and how studiously was avoided the faintest approach to the merest semblance of any one that has been identified with the history of one race and set up, after years of strife, as a shelter for human rights.

But sadder yet, and most ominous of all, was to see with how little thought some seemed ev[illegible] to provoke and drive people to the last extr[illegible] of resistance.

It is not unfit, whilst offering a testimony [illegible] spect for the act of an officer, done to keep [illegible] self and his place pure, once again to ask of th[illegible] who are ready to take the stand that these thin[illegible] shall be no longer, even under the form of statut[illegible] to organize a suffiient force to abolish them, to take no such position, but to stay from all violence and resistance. I pray the time may never come for that. At this time prudence counsels against it. Justice forbids it. The sentiment and the strength that alone suggest or could warrant it, can expunge from the statutes the pretence for all these abuses. No, let every man, high or low, as he loves his country, as he reveres its constitution and respects its laws, as he would preserve its peace, do all that in him lies, by the powers of his office and a citizen, to restore and recover our lost rights and liberties; let all forget other bonds and at once take the stand together, that the landmarks of freedom shall be set up again and slavery retire where it belongs, to show that there are remedies whereby the rights of man can be secured. If the pound of flesh is to be taken see that they spill not one drop of Christian blood.

It is fit to ask calmly of those combining under the bill of 1854 and the bill of 1850, to pause and consider whether, instead of pressing on in every form to outrage and insult the people, it would not be better to repair these wrongs, which we know *must be redressed*; to restore the rule of the Constitution and the laws; to remind them that those who hold power from the people are bound as sacredly to the just use of it as if it were derived from a crown; to ask them if they meant to make sport of law; to beg them to reflect if their love of *order and law, of liberty, of their country*, of the Constitution of the land, and the laws of God, will not at least recall them, whether they would really wish to bring on that time in which the question would be not who happens for a brief term to hold this or that post, but whose hearts are the bravest, whose numbers the greatest, whose arms the strongest, whose cause is just.

New England knows where the guilt will belong, of what will follow, if the threats of this year, and the scenes of this case are to be often repeated. I think she does not fear. She knows there is a power, somewhat larger than the mere ratio of the freemen to the slaveholders, as resistless as the right forever must be against wrong, to stay any form of oppression, and she hopes to see that power put forth. Alas for the day when that hope shall depart.

In this act of yours New England spoke, and for her as well as these, I venture to thank you.

Permit me, sir, to read for the gratification of your friends, this inscription:—

To Joseph K. Hayes, Esq., Ex-Captain of the Watch and Police of the city of Boston, this Salver is presented by a portion of his fellow-citizens, as a Testimonial of their admiration for his conduct when called upon by the Mayor of Boston to perform an act which he regarded as unworthy of a Man, an American and a Christian.

When directed to assist in the extradition of Anthony Burns, the alleged Slave, *he resigned his office* in the following letter:

"Boston, June 2d, 1854.

"*To his Honor, the Mayor and Aldermen of the City of Boston:*

"Through all the excitement attendant upon the arrest and trial of the Fugitive, by the U. S. Government, I have not received an order which I have conceived inconsistent with my duties as an Officer of the Police, until this day, at which time, I have received an order, which, if performed, would implicate me in the execution of that infamous Fugitive Slave Bill. I therefore resign the office which I now hold, as Captain of the [illegible]on and Police, from this hour, 11 o'clock."

We are proud to claim as a fellow citizen one who, though poor, cannot be bought; who loves his integrity better than his daily bread, and who has given such an example of what a *true American citizen* should be. His conduct is a practical denial of the Atheistic doctrine (the most dangerous to American liberty, because of its speciousness,) that the law of the land has a higher sanction than the law of God—a doctrine which, if true, renders our forefathers traitors, our Revolution high treason.

R. E. Apthorp,
James Carpenter,
Francis Childs,
George B. Emerson,
H. A. Emery,
} *Committee.*

Sir, no man knows whether this act of yours is to be one of those that shall attend a peaceful, quiet return to the ways of liberty protected by law, or one that is to be numbered with those of earlier days of the Republic. Whichever it be, it will stand for your honor; I trust, too, for the good of the State. May you live to see the happy end of which this is an earnest, and have the satisfaction to remember that you did one act for its accomplishment.

Mr. Hayes, on receiving the testimonial, made a few unaffected remarks, thanking the committee and explaining briefly the reasons for the act of his resignation. He modestly disclaimed any credit for the act. which he said was only a natural one for him, as he had been an anti-slavery man all his life. He had only done what he held to be the duty of every honest man, and he believed that even if he had not been imbued with anti-slavery principles, he would still have refused to assist in such a disgraceful business as the rendition of Burns. The remarks of Mr. Hayes—which no report could do any justice to, as any would fail to reproduce the simplicity and conscientiousness which characterized them—were received with frequent and hearty manifestations of applause.

Rev. Theodore Parker and Mr. Garrison being loudly called for, arose successively, and spoke in eulogy of the manly conduct of Mr. Hayes, amidst great enthusiasm. The meeting then adjourned.

Mr. Hayes may well be proud of a testimonial—the occasion for which shall be a sure claim to the remembrance and gratitude of his posterity. And Massachusetts may well be proud of Mr. Hayes; for in him she had an officer who refused to insult her public spirit, and who—a poor man, with the bread for his chilren thrown into the scale against the performance of an odidus duty—nobly refused to do an act incompatible with the public freedom.

The Music Hall.—When stating a few days since that Messrs. Charles C. Perkins and Eben Dale had been chosen to fill the vacancies in the Board of Directors of the Boston Music Hall Association, we omitted to add that the new board was organized by the choice of Dr. J. B. Upham as President; John Rogers as Treasurer; and Francis L. Batchelder as Clerk.

Mr. C. P. Curtis's letter of resignation, with some further remarks, will be found in another column.

Washington Sentinel.

EDITED BY

WM. M. OVERTON, CH. MAURICE SMITH,
AND BEVERLEY TUCKER.

CITY OF WASHINGTON.

JUNE 25, 1854.

RELIGIOUS INFLUENCE.

In all ages religion has had its controlling influence over the government of different countries. In the medieval age of Europe, when the licentious power of Rome had established its control over the consciences and administration of kings, all Europe was a great hierarchy. Nor was the result materially changed when the evils of popery gave rise to the reformation. The unity of the church being destroyed by that movement, religious feeling manifested itself in almost every shape and form, with one great element of persecution running through them all. The separation of our own colonies from the mother country had the effect, for a time, of checking this usurpation of religion over political government; but experience has taught us that even here, the same principle often manifests itself in a different way, and that the selfish ambition of the priest and blind superstition still exist, mutually to support and extend each other. The disease has in some portions of the country assumed a new type. It can never be entirely eradicated.

Power alone is wanting to fix upon our own free country the dreaded tyranny of an hierarchy. Fanatical and ambitious men still fill our pulpits, whose religious creed tends to disseminate the seeds of discord and of treason through the length and breadth of the land. Their text ceases to be the peaceful principles of the gospel of peace. The conservative teachings of Him "who spake as never man spake," are discarded from the sacred desk, and their place supplied by thundering anathemas against the statesmen of the country, and vehement denunciations of the laws of the land. The pure principles of religion have degenerated into a ranting, canting, and spurious philanthropy, whose system teaches its followers an impertinent interference with the concerns of others and a total neglect of their own. Their morality is like the rocket, which sheds its broad gleam from a distance, but expires ere it reaches the darkness of its own home.

The memorial of the notorious three thousand anti-Nebraska parsons, to which we have so often referred, was a striking illustration of this principle—

"But one we would select from that *fair* throng,"

who considers the whole mission of religion to be the entire destruction of an institution which the religion of the Bible recognizes in both the Mosaic and Christian dispensations. In presenting once more to the attention of our readers the notorious and disgraceful name of Theodore Parker, we must acknowledge our thanks to the able editor of the "United States Review," from whose article on the subject we have drawn most of the facts connected with his career.

We were struck in reading the article to which we refer by the following extract from one of the sermons of this reverend traitor:

"I take not the Bible for my master, nor yet the church, nor even Jesus of Nazareth for my master I feel not at all bound to believe what the church says is true, nor what any writer in the Old or New Testament declares true.'

This is sufficient to show the character of the religious sentiment of this *distinguished* divine. We owe an apology to our readers for publishing even this small modicum of the profanity which pervades almost all of his addresses. But the extract we have given exemplifies in a striking manner the effect of fanaticism upon the mind. The man of whom we write, commenced as an orthodox and consistent minister of the Christain faith; but, finding that the Bible did not square with the sentiments of abolition, he renounced and denounced it as unworthy of belief. From such a man, we may expect to hear such sentiments as those quoted in the review to which we refer: "*that perjury is often the duty of a juryman;*" and that "*murder may be properly resorted to in a resistance to law.*" The first of these propositions is striking, when connected with the proposed amendment of the fugitive slave law, that the trial for the recovery of a slave should be by a jury—a jury possibly empanneled from the congregation of a man who openly recommends perjury to them. The other is a sentiment which, but for the extreme mildness of our laws, would convict its author as accessory before the fact of any crime that might be perpetrated under such murderous advice.

Theodore Parker is but one of a large and growing class. His associates in treason lack the brute boldness, and the reckless madness, (we will not call it manliness or candor,) which urges him to the expression of absurdities which they conceal. But even they, the Beechers, the Waylands, and others are equally as fanatical, and more dangerous, because insidious. The lurking venom of the wiley snake, is even more to be feared than the roused anger of the roaring lion.

Let not the absurd doctrines of these men make us feel secure from the dangerous results which they may accomplish. Let it be remembered that they are men of high, though perverted intellect, and of the most reckless and ungovernable hearts. They may persuade by eloquence, convince by false logic, and control by high position the large mass who flock to hear them desecrate the house which has been dedicated to God. The young, particularly, of ingenuous hearts, but undeveloped reason will be captivated by the easy flow of

their rhetoric, and won by the attractive garb of their demoniac *philanthropy*. These, their hearers, are the present or will be the future constituents of representatives in Congress. We all know the effect of these causes upon the minds even of the most honest statesmen. Compare the cloud of abolition which first arose in the east, like the cloud after the prophets famine, no bigger than a man's hand, with the thunders of the storm which has since burst from that cloud upon our beloved country, and we see the rapid growth of error from the smallest and most despised sources.

We do not mean anything we have said to apply to the effect or design of religion generally. Revolving in its own sphere, we respect its character, and delight in the influence which it exerts upon the world. We would see its mild precepts exercised in the life of the statesman, but not connected with his legislation. Chastened by its precepts and elevated by its doctrines, he would become better fitted for the duties of his daily life.

On this Sabbath morning, a season fitted for contemplation, we have presented these reflections to our readers, with the hope that by a timely warning they may be productive of some good to our country.

DAILY ADVERTISER.

BOSTON:

THURSDAY MORNING, JUNE 29, 1854.

For the Boston Daily Advertiser.

BOSTON MUSIC HALL.

Mr. Editor:—Your issue of the 26th inst. contains some strictures upon the management of the Boston Music Hall, based upon the following assumed facts:—

1. "The lease of the Music Hall to the '28th Congregational Society,' is a violation of the terms, both implied and expressed, upon which the Hall was built; by it, the original purpose is violated, defeated and annulled."

2. "It is well known that the subscription to the stock was filled with difficulty; and had it been announced that the Hall was to be used for this purpose, foreign to that implied in the name, the Hall would very likely never have been built; certainly not by the existing corporation."

On the 11th of April 1851, a printed circular was issued, widely distributed and published in the city papers, inviting subscriptions for a Music Hall. It recommended the Bumstead estate as the location, gave an estimate of the cost and proceeded as follows:

In regard to the income, which may be expected from the expenditure thus laid out, the public can form some judgment from the experience of the existing Halls used for musical purposes, in this city and elsewhere. The large Halls here, thus employed, are valuable property. There are now in Boston three established Musical Societies, which require the accommodations the above described building would afford for their yearly series of rehearsals and concerts. The convention of teachers and amateurs, which holds its annual session in this city, and the occasional musical festivals now becoming more frequent, demand a suitable room for their exhibitions. All these associations will give their earnest support to a plan which will supply their wants. Add to this the large number of miscellaneous concerts which are seeking accommodations, the many requisitions of the proposed Hall for public speaking, lectures, conventions, anniversaries, religious exercises on Sunday, &c., and it would hardly seem to lack employment. From the above considerations the following estimate as to the income to be derived from the building in question will not be unreasonable.

The Hall would without doubt readily command a rent of $100 per night; it might be expedient however to fix the price for our local societies at $75. The annual receipts may then be estimated as follows:—

From micellaneous Concerts, at $100 per night twenty five nights,.....	2,500.00
Oratorios and Concerts by our local Societies, twenty-five nights, at $75.....	1,875.00
Rehearsals of ditto throughout the year, say.....	500.00
Evening Lectures of Literary Associations, &c., twenty-five nights, at $75.....	1,875.00
August Musical Convention, say.....	600.00
Day use for Conventions. Anniversaries, City Celebrations, &c., twenty-five days, at $50.....	1,250 00
Rent to a Religious Society for use on Sunday...	1,500.00
Amounting to.....	$10,100.00

It will thus be seen that about one seventh part of the income was expected to be derived from the use of the Hall for public worship on Sunday.

The subscription was raised and the corporation organized by choosing as Directors the following gentlemen:—Charles P. Curtis, President; Charles H. Mills, Benj. D Greene, J. B. Upham, Jonas Chickering, George Derby, Robert E. Apthorp.

The Hall was completed and opened to the public on the 20th of November, 1852. The following are extracts from the Directors' Records:—

"June 2d, 1852 —Voted, That the clerk be instructed to advertise, that the Association are ready to receive applications for the use of the Hall and Lecture Room on Sundays, for Public Religious Worship, after the 15th of November next." (And it was advertised.)

"Sept. 7. 1852. The Committee on letting the Hall reported, that an application had been received from the '28th Congregational Society,' for the use of the large Hall on Sunday forenoons, and it was thereupon voted, that the Committee on letting, be authorized to lease the large Hall, for purposes of Public Religious Worship on Sunday forenoons only, for the term of one year, at the rent of $1250, per annum, payable quarterly." (This is the only application ever made for *this* use of the Hall.)

(April 21, 1853, Mr. B. D. Greene resigned and Mr. H. W. Pickering was chosen in his place. July 12, 1853, Mr. Chickering resigned, and Mr. E. D. Brigham was elected in his place Sept. 28, 1853.)

"Nov. 4, 1853. Voted, that the Standing Committee be instructed to notify the '28th Congregational Society' that the rent of the hall for Sunday forenoons, for the ensuing year, after the 20th November current, will be $1600 per annum, payable semi-annually." (The scale of prices for all occupants was raised at this time.)

"November 22, 1853. The Standing Committee submitted a letter from a Committee of the '28th Congregational Society,' which was placed on file, and it was then

"Voted, that the Standing Committee be authorized to propose a continuance of the lease of the hall to the '28th Congregational Society,' on Sunday forenoons, for the ensuing year, at the rent of $1250,—reserving to this Association the right to use the hall on any two consecutive Sundays during the year, and giving to said Society, on said days, the use of the Lecture Room."

The above comprises the entire action of the Board on this subject. The two members who have now withdrawn from the Board, have been Directors of the Association from its organization until the present time, to wit: the 26th of this month; and no member of the Board has ever objected, at its meetings, to the leasing of the hall to the '28th Congregational Society.'

The Directors, representing the business interests of a large number of persons holding every variety of opinion in politics, religion and music, have never felt themselves at liberty to refuse the use of the building for any purpose embraced in the original plan; and they believe, that by pursuing this course, they will best discharge their duty to all the stockholders.

Published by order of the Directors,
F. L. Batchelder, Clerk.

Boston, June 28, 1854.

From the Evening Edition of Yesterday.

CURTIS, T. B. AND THEODORE PARKER.—The *Advertiser* of this morning contains a letter from Thomas B. Curtis to the Directors of the Music Hall, containing a few serious remarks upon the present "crisis." Mr. Curtis says that at a time when there was great discouragement respecting the success of the Hall, the late Mr. Chickering called upon him and agreed to contribute $5000, if he (Curtis) would do the same. Curtis did so. If Mr. Chickering had told him that one of the earliest leases of the Hall was to be for a purpose so foreign to that proposed, "not for music, not for public improvement, but its reverse," he thinks he should not have subscribed the $5000, without guarding against such a "perversion of the use f the building." He claims that such a lease is a violation of the terms both implied and expressed, upon which the Hall was built; he maintains that the present occupation is a "nuisance, not reached by the law." [Can't he *draw a charge* from Judge B. R., which will *reach* it?] He would have doubled his outlay rather then suffer this "nuisance," and getting warmed up as he proceeds, he expresseth hope that "one who evinces want of loyalty to the institutions of God and of man, will not be permitted to continue under our roof his seditious harangues, and scoffing denunciations of the good and the great, both living and dead."

A meeting of the Directors is to be held this afternoon for the purpose of taking action on the resignation of Curtis, C. P. and Mr. Mills, and perhaps to act on the matter of renewing the lease What they may do, is a matter of but little consequence to the public. Theodore Parker will be pretty apt to be *heard* in this community, somewhere, if not in the Music Hall. The attempt o Curtis, *B. R.*, to get him indicted has failed. I Curtis *C. P.* and Curtis *T. B.* fail to get him urned away from the Music Hall, we see no other course left but for Curtis *G. T.* to issue a warran against him as a fugitive from slavery; get some body to swear to him and send him off to Virginia We should be almost reconciled to the loss of Mr Parker if his disappearance would silence the Curtii; for we are daily compelled to echo the exclamation of one of our citizens, made a few years ago—"Is this *Boston* or is it *Curtisdom?*"

TO THE DIRECTORS OF THE BOSTON MUSIC HALL ASSOCIATION:

GENTLEMEN,—In conformity with the declaration I made at the annual meeting of the Stockholders, held on the 14th inst., after the vote adverse to the motion made by Mr. Thomas B. Curtis, *to instruct* the Directors not to renew the lease to the 28th Congregational Society, I respectfully decline the office of a Director, to which I was chosen at that meeting. My reason is, that I cannot consent to serve as an officer of a company, which by its recorded action, declares its willingness to permit its property to be used *as a vehicle for disseminating sentiments, which I regard as subversive of law and order; and for the utterance of denunciations and slanders, in relation to my friends and kinsmen.*

I regret to separate myself from gentlemen with whom I have been so much associated as I have with you, in the construction and management of the Boston Music Hall; and from whom I have uniformly received tokens of regard. Although not agreeing with you in the expediency of leasing the Hall to Mr Parker's Society, yet as I found the majority of the Board concurred in that act, I did not deem it wise by fruitlessly urging my individual opinion, to *wound the feelings of any of the members*, and perhaps to mar the harmony so necessary to the useful action of a Board of Directors.

I was informed by several persons prior to the annual meeting in 1853, that a movement similar to that of the late meeting, would be made, and I then determined, if I were chosen a member of the Board of Directors, not to serve as such, if such a vote were rejected

On my return from abroad, I found that no action on this subject was had at the meeting of Stockholders in June 1853, and I concluded to *give* my services (such as they were), to the Stockholders for another year.

The case is now different. The subject of the lease to Mr. Parker's Society has been brought before the Stockholders; and they have refused to express their preference for a different action by their Directors; thus leaving the matter to the same officers, who had previously acted upon it in a manner that I disapprove.

I therefore propose to withdraw from sharing in the responsibility of a repetition (it may be) of a step, to which I could not assent.

I am Gentlemen, with esteem,
Your friend and Servant, C. P. C.

June 16, 1854.

The above is a copy of a letter addressed by the writer, to the Directors of the Music Hall Association on 16th June. It was not his intention to publish it; but the publication of the statement by the Secretary of the Association, "by the order of the Directors," appears to him to make it expedient to print his letter; and while doing so, he takes leave to observe that that statement does not, as he thinks, meet the case on which the action of the mover of the vote to terminate the lease, and of the writer of these lines, was founded. Mr. Thomas B. Curtis offered that motion, and the writer withdrew from the Direction, because they think that the Hall is made use of for improper and pernicious purposes; for the utterance of sentiments of disloyal and dangerous tendencies; and for the publication of personal slanders, rank and gross in nature. One example of the latter will suffice:—On Sunday, May 28, the Minister of the Society who occupy the Music Hall, among other things said by him concerning Judge Loring, uttered the following:—

"EDWARD GREELY LORING, Judge of Probate for the County of Suffolk, in the State of Massachusetts, Fugitive Slave Bill Commissioner; before these citizens of Boston, on Ascension Sunday, assembled to worship God, I charge you with the death of that man who was killed on last Friday night. He was your fellow servant in kidnapping; he dies at your hands; you fired the shot which makes his wife a widow, his child an orphan;" and more of the same sort. And then the Reverend Minister adds, "This is my lesson for the day."

This was published soon after its delivery in one or more newspapers and is now in a pamphlet printed by B. B. Mussey & Co. Can it be supposed that if the *principal subscribers* to the stock of the Music Hall, had foreseen that it would be applied to *such purposes*, they would have contributed their funds to erect it? Can it be doubted that they would have rejected the proposition with indignation? The Directors say in Mr. Batchelder's statement published by their order, that by pursuing the course they have followed, they will best discharge their duty to *all the Stockholders*; to this if the Directors mean that it is their duty to renew the lease to Mr. Parker's Society, the writer respectfully takes leave to express his dissent. So far from discharging their duty to *all*, they will by renewing this lease, go in opposition to the major part of the stockholders, unless the majority of them are willing that their property shall be made an arena for insulting Judges and publishing seditious harangues, under the appellation of Sermons and Lessons for the Day.

It is to be hoped that this is not and never will be the case; but whatever may be the event of such a scrutiny, the writer while he repudiates all intention or wish to exercise any dictation to others, also repudiates all future responsibility on himself, for such a misuse of that beautiful Hall dedicated to music and harmony.

C.

The Fugitive Slave Law in Connecticut.

We have already stated that a law, entitled an act for the defence of liberty, but designed to impede the operation of the Fugitive Slave Law, has been passed in Connecticut. The following is the law, and subjoined is a report of the debate in the House of Representatives, upon the question of its final passage:

Sec. 1. Every person who shall falsely and maliciously declare, represent or pretend, that any free person is a slave, or owes service or labor to any person or persons, with intent to procure, or to aid or assist in procuring, the forcible removal of such free person from this State as a slave, shall pay a fine of five thousand dollars, and be imprisoned five years in the Connecticut State Prison.

Sec. 2. In all cases arising under this act, the truth of any declaration, pretence or representation, that any person being or having been in this State, is or was a slave, or owes or did owe service or labor to any other persons or persons, shall not be deemed proved, except by the testimony of at least two credible witnesses testifying to facts directly tending to establish the truth of such declaration, pretence or representation, or by legal evidence equivalent thereto.

Sec 3. Every person who shall wrongfully and maliciously seize or procure to be seized any free person entitled to freedom, with intent to have such free person held in slavery, shall pay a fine of five thousand dollars, and be imprisoned five years in the Connecticut State Prison.

Sec. 4. Upon the trial of any prosecution arising under this act, no deposition shall be admitted as evidence of the truth of any statement in such deposition contained.

Sec. 5. If, upon the trial of any prosecution arising under this Act, any witness shall, in behalf of the party accused and with intent to aid him in his defence, falsely and wilfully, in testifying, represent or pretend, that any person is or ever was a slave, or does or ever did owe service or labor to any person or persons, such witness shall pay a fine of five thousand dollars, and be imprisoned five years in the Connecticut State Prison.

Sec. 6. Whenever complaint or information shall be made against any person for any offence described in any section of this Act, and upon such complaint or information, a warrant shall have been duly issued for the arrest of such person, any person who shall hinder or obstruct a sheriff, deputy sheriff or constable in the service of such warrant, or shall aid such accused person in escaping from the pursuit of such officer, shall be imprisoned one year in the Connecticut State Prison.

Sec. 7. No declaration, pretence or representation that any person is or was an apprentice for a fixed term of years, or owes or did owe service merely as such an apprentice for such a fixed term, shall be deemed prohibited by this Act; and no declaration, pretence or representation that such a person is or was such an apprentice for such fixed term, or owes or did owe service merely as such an apprentice for such fixed term, shall render any person liable to any penalty under this Act.

Mr. Munson had no objection to inflicting the severest penalty for a malicious claimant; but an innocent man may not be able to procure the negative evidence for his defence.

Mr. Hyde said that the bill would nullify the plainest provisions of the Constitution and the laws of the land. It is an infamous attempt to override the Constitution and laws. He moved an indefinite postponement.

Mr. Brandagee said, this is a bill for the "defence of liberty" in this State. The first and main section relates to a free person and intends to remove him. Is there a man in this House who will not support this part of the bill? He denied the interpretation given by Mr. Munson. If he (Mr. B.) thought the bill conflicted with the U. S. Constitution, he would vote against it; but he would not fall behind in the defence of freedom. Let us pass this bill, and we shall be followed by every free State. He paid a high compliment to the author (Mr. Harrison) of the bill. He regarded it a higher honor than to be the author of the poems of Homer.

Mr. J. C. Smith would have given a silent vote, did not the bill contain an implied aspersion on our own State, in her glorious career for freedom. The only safety for the Union, consists in the maintainence of the compromises of the Constitution.

Mr. Pierce of Norwich said the remark of Patrick Henry in the House of Delegates in Virginia, "*Give me liberty, or give me death,*" had echoed through the country. All we ask is, that liberty be protected.

Mr. Hall contended that the U. S. Constitution contains the spirit of liberty, and nothing else.

Mr. Oakly warmly contended for the defence of liberty, and the protection of freemen. South Carolina can take a northern freeman and imprison him; and shall we not protect the right of men in this State?

Mr. Osgood moved the previous question; and motion to postpone indefinitely was rejected.

Mr. Munson moved to strike out the 2d and 4th sections.

Mr. J. S. Allen said, this bill is called for. Congress has violated the compromise of 1850.

Mr. Cornwall inquired whether the bill will not conflict with that part of the fugitive slave law relating to evidence?

Mr. Brandagee replied that the commissioner is simply a ministerial officer. He has nothing to do with judicial evidence. But this law is designed to bring the matter where evidence can be presented.

Mr. Maddox thought the title did not correspond with the design of the bill.

Motion to amend rejected, and yeas and nays ordered. Bill passed by a vote of 112 to 85.

[For the Commonwealth.]

Dr. Edward Beecher and Theodore Parker.

Rev. Edward Beecher, D. D.:—My dear Sir,—I have just read your letter in the *Commonwealth* of this morning, in which you maintain that the statements in my last sermon, respecting the delinquency of the Northern clergy, were too sweeping, and that I did injustice to the ministers who stoutly resisted the fugitive slave bill and its execution. Perhaps the language of the sermon would seem to warrant your opinion. But I have so many times and in so public a manner expressed my respect and veneration for those noble men who have been found faithful in times of peril, that I can not think I am in general at all obnoxious to the charge you make against men.

In respect to the special sermon of last Sunday, I beg leave to inform you that the *whole* was neither printed nor preached; the entire sermon is now in press, and when you see it I think you will find that I do no injustice to the men you speak of. As I spoke, Sunday, I did not suppose any one would misunderstand my words, or think I wished to be regarded as the only one found faithful. Certainly I have many times done honor to the gentlemen you mention, and to the journals you refer to—with others you do not name. And, allow me to say, the conduct of yourself and all your family has not only been a strong personal encouragement to me, but a theme of public congratulation, which I have often brought forward in lectures and sermons and speeches. I am a little surprised that you should suppose that by the *churches of commerce* in New York, Boston, &c., I mean *all the churches* of these towns. I still think that from 1850 to 1852, the general voice of the New England churches, so far as it was heard through the press, was in favor of the fugitive slave bill and its execution. This was especially true of the rich and fashionable churches in the great commercial towns. Surely you cannot forget the numerous clerical eulogies on the late Mr. Webster, which sought to justify all his political conduct. I do not think you have made out a very strong case for Andover.

I am sorry to have given pain to a man whose life is so noble and his character so high; but believe me, Respectfully and truly yours,

THEODORE PARKER.

JUNE 29, 1854.

The Atlas.

THE ILLEGALITY OF THE RENDITION OF BURNS.

The recent proceedings in this city, in the case of Burns, the alleged fugitive from slavery, have brought out in the sharpest relief the unjust features of the fugitive slave law, and have provoked throughout the community the inquiry whether it is possible that, under a constitution framed and ordained to establish justice, Congress has power to pass laws so utterly subversive of justice. There is no principle of law more firmly established, or more generally recognized under every system of jurisprudence than that no man can be justly condemned or deprived of his rights, without an opportunity to be heard in his own defence. And yet we have seen a man taken from the soil of Massachusetts and carried to Virginia as a slave, to whom no opportunity was given to be heard upon the two facts which must exist to bring him within the provision of the constitution relative to the restoration of slaves, viz., that he owed service or labor, under the laws of Virginia, to the claimant, and that he had escaped therefrom.

A law which disregards in this manner, the elementary principles of justice, ought not to be extended in its operation, by any loose construction, beyond its literal requirements. Its administration being placed in the hands of the several judges of the United States Courts, and of the United States Commissioners, and no appeal being allowed from the decision of any case, there is no mode of obtaining, directly, a judicial construction of the law in the higher courts, which shall be binding upon the inferior tribunals. Each judge or commissioner may give his own construction to the law, and there is no way to test judicially the correctness of the principles upon which he proceeds. It seems, therefore, not improper to subject the decision of a commissioner, in such a case, to examination in the public press.

It is of the highest importance that the execution of a law, which does violence to the feelings of a whole community, should not by judicial construction, be made more obnoxious than is necessary; and no principle should be adopted by those in whose hands its administration is placed, which is not embraced in the plain requirements of the act.

We propose, therefore, to examine the decision of the commissioner in the recent case of Burns, and to inquire into the correctness of the legal principles which he there laid down. We believe those principles to be wholly unsound, and that there was no legal evidence put into the case by the claimant, which justified the granting of the certificate.

Three things are required by the law to be proved, to entitle the claimant to a restoration of the alleged fugitive: 1st, that the person claimed owes service or labor to the claimant by the laws of some other State; 2d, that he has escaped; and 3d, that the person brought before the Commissioner is the person claimed to owe service or labor.

The law provides that the first two facts may be proved before any court of record in the State from which the escape was made, and that a transcript of the record of the proceedings in such case, when produced before any Commissioner, shall be full and conclusive evidence of these facts.

In the case of Burns, the following record was produced from Virginia:

"In Alexandria Circuit Court, May 16, 1854:—On the application of Charles F. Suttle, who this day appeared in Court and made satisfactory proof to the Court that Anthony Burns was held to service and labor by him, the said Suttle, in the State of Virginia, and said service and labor are due to him, said Suttle, from the said Anthony, and that the said Anthony has escaped from the State aforesaid, and that the said service and labor are due him, the said Suttle, the master of the said Anthony, and having further proved to the satisfaction of the Court, that the said Anthony is a man of dark complexion about six feet high, with a scar on one of his cheeks, and also a scar on the back of his right hand, and about twenty-three or four years of age: It is therefore ordered, in pursuance of an act of Congress, entitled 'an act to amend and supplementary to the act entitled an act respecting fugitives from justice, and persons escaping from their masters, approved Feb. 12, 1793;' that the matter so prayed and set forth, be entered on the record of this Court."

"State of Virginia, County of Alexandria, ss.—I, Franklin L. Burkett, Clerk of the Circuit Court of Alexandria County, in the State aforesaid, do hereby certify that the foregoing is a true transcript from the records of said court.
In testimony whereof I hereto subscribe my name, and annex the seal of said Court this 13th day of May, 1854, and in the 78th year of the Commonwealth.

[L. S.] F. L. BURKETT, Clerk of Alexandria C. C."

"State of Virginia, County of Alexandria, ss.—I, John W. Tyler, presiding Judge of the Circuit Court of Alexandria County, in the State of Virginia, do certify that Franklin L. Burkett, whose name is affixed to the preceding certificate as Clerk of the said Court, is Clerk thereof, and that his said attestation is in due form.
Given under my hand this 18th day of May, 1854.
JOHN W. TYLER."

By the production of this record, according to the decision of the Commissioner, "*These two facts were entirely and absolutely removed from his jurisdiction, and he was entirely and absolutely precluded from applying evidence to them;*" nothing being left to him but to decide whether the Anthony Burns of the record was the Anthony Burns held under his warrant. And he comes to this most extraordinary and alarming conclusion without any inquiry into the power of Congress to declare that judicial proceedings against a man in his absence shall be conclusive upon his rights, leaving him no opportunity to show fraud or mistake, or matters of avoidance subsequent to the record; or any inquiry into that other and more important question, what right Congress has to interfere with the conscience of a judge and declare that certain evidence shall be sufficient to convince him, or that he shall render judgment without being convinced.

Under this decision, it would seem, that had the claimant acknowledged in open court, that Burns was not his slave, or that he did not escape, or that he had since liberated him, the commissioner would, nevertheless, have been bound to grant the certificate and send a free man back to slavery.

Nay, if the transaction for the redemption of Burns had been completed on Saturday night, yet Col. Suttle, with the gold in his pocket, might have come into court Monday morning, and insisted upon the proceedings going forward, and the Commissioner would have been bound to shut his eyes to the instrument of manumission, in his own handwriting, and arm Col. Suttle with the power to carry Burns back to Virginia.

The 10th section of the Fugitive Slave Act provides, "That when any person held to service or labor in any state or territory, or in the District of Columbia, shall escape therefrom, the party to whom such service or labor shall be due, his, her, or their agent, or attorney, *may apply to any court of record therein*, or judge thereof in vacation, and make satisfactory proof to such court or judge in vacation, of the escape aforesaid, and that the person escaping owed service or labor to such party. Whereupon, the court shall cause a record to be made of the matter so proved," &c.

Does this section confer upon the State courts power to take jurisdiction in these cases, and make up the record here provided for; or is the jurisdiction here conferred, limited to the United States Courts? An examination of the authorities will show that when *courts* are referred to in general terms in an act of Congress, *it is to be understood as applying only to the*

Courts of the United States. The language must be express and explicit, to justify the conclusion that Congress intended to confer powers upon courts not created under its own authority.

The act of Congress of Feb. 28, 1795, for calling out the militia by the President of the United States, provided for the punishment of persons refusing to serve, by "a general or regimental court martial." The question arose in Pennsylvania, and was carried before the Supreme Court of the United States, whether this language could be held applicable to a court martial summoned under the laws of that State, or was confined to courts held under the laws of the United States. Justice Story, in delivering his opinion, held the following language: "When a military offence is created by an act of Congress to be punished by a *court martial*, how is such an act to be interpreted? If a similar clause were in a State law, we should be at no loss to give an immediate and definite construction to it, viz: that it pointed to a State court martial. And why? Because the offence being created by State legislation, to be executed for State purposes, must be supposed to contemplate in its execution such tribunals as the State may erect, and control, and confer jurisdiction upon. A State Legislature cannot be presumed to legislate as to foreign tribunals; but must be supposed to speak in reference to those which may be reached by its own sovereignty. *Precisely the same reasons must apply to the construction of a law of the United States. The object of the law being to provide for the exercise of a power vested in Congress by the Constitution, whatever is directed to be done must be supposed to be done, unless the contrary be expressed, under the authority of the Union.* When, then, a court martial is spoken of in general terms, in the act of 1795, the reasonable interpretation is, that it is a court martial to be organized under the authority of the United States—a court martial whom Congress may convene and regulate." —*Houston* vs. *Moore*, 5 Wheaton, 1.

In the same case Justice Johnson, speaking of the rule of construction in such cases, says: "I hold it unquestionable, that whenever, in the statutes of any government, *a general reference is made to law*, either implicitly or expressly, that it can only relate to the laws of the government making this reference."—Applying this rule of construction to the act of 1850 and it follows, conclusively, that the language "any court of record" can only apply to courts of record of the United States. And a similar law, an extradition law, of Congress has judicially received this construction.

An act of Congress passed March 1st, 1829, provides "That on application of a consul or vice consul of any foreign government having a treaty with the United States, stipulating for the restoration of seamen deserting, made in writing, stating that the person therein named has deserted from the vessel of any such government while in any port of the United States, and on proof by the exhibition of the register of the vessel, ship's roll or other official documents, that the person named belonged, at the time of the desertion, to the crew of the said vessel, it shall be the duty of *any court, judge, justice, or other magistrate having competent power to issue warrants*, to cause the said person to be arrested for examination," &c.

A magistrate of the State of New York, having caused an arrest to be made under this act, the prisoner was brought up under a writ of *habeas corpus* and the case was finally carried before the Supreme Court of that State, where it was decided that the act could not be held to apply to the State tribunals. The court says: "In our judgment the act cannot be held to devolve any power upon the officers of the States, unless they are in express terms included in its provisions. The expression of the statute, '*any court, judge, justice or other magistrate having competent power to issue a warrant,*' can be fully answered only by the courts and officers of the United States. *Indeed, the United States, in passing a statute devolving upon any officers particular powers and duties, must, in the absence of any expressions to the contrary, be considered as referring to their own officers alone.* We are unanimously of opinion it was never intended by Congress, in the present statute, to confer power upon any but courts and officers of the United States; *and no court, judge, justice or other magistrate of this State can assume to execute its requirements.*"—*Ex parte Bruni*, 1 Barbour, 187.

The opinion of Chief Justice Marshall, in the case of William Meade, reported in 5 Hall's Law Journal, page 536, is to the same effect. William Meade having been convicted, before a Virginia Court Martial, of refusing to obey a requisition of the President of the United States upon the militia of Virginia, and having refused to pay the fine imposed, was imprisoned. A writ of *habeas corpus* was sued out before Chief Justice Marshall, and, upon a hearing, the prisoner was discharged, on the ground that the State Courts Martial had no jurisdiction in the case.

The objection was taken on behalf of the prisoner, that the court sat under the authority of the State and not of the United States. The Chief Justice in delivering his opinion said, "The court was unquestionably convened by the authority of the State, and sat as a State court." After enumerating the various statutes of Congress upon the subject, he proceeds—"Upon these sections depends the question whether courts-martial for the assessment of fines against delinquent militia men should be constituted under the authority of the United States, or of the State to which the delinquent belongs. The idea originally suggested, that the tribunal for the trial of the offence should be constituted by, or derive its authority from the government against which the offence had been committed, *would seem to require that the court thus referred to in general terms, should be a court sitting under the authority of the United States.* It would be reasonable to expect, if the power were to be devolved upon the court of a State government, that more explicit terms would be used for conveying it." And after considering the objections to this construction, he says—"This inconvenience may be great, and well deserves the consideration of Congress; *but I doubt whether it is sufficient to justify a judge in so construing a law as to devolve upon courts, sitting under the authority of a State, a power which in its nature belongs only to the United States.*"

In Ex parte Bolton, 5 Hall's Law Journal, 476, a case where a party had been fined by a State court martial, acting under a law of the United States, the Supreme Court of Pennsylvania held the following decisive language: "It appears, then, that whether we consider the words or the subject and spirit of the constitution and laws of the United States, a court martial for the trial of offenders charged with disobedience of the orders of the President, can derive authority from no other source than the United States." The prisoner was discharged, thus showing that an act of Congress giving jurisdiction in general terms to "*a court martial*," could not be construed to extend to a State court martial.

But if it be true that this law does attempt to vest these powers in the State courts, then the important question arises, has Congress any power to confer this jurisdiction upon the State courts?

The Constitution provides, Art. 3, Sec. 1—"That the judicial power of the United States shall be vested in one Supreme Court, and in such inferior tribunals as the Congress shall from time to time establish." By Art. 3, Sec. 2, it is provided that "The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States," &c. It will hardly be claimed that the fugitive cases are not cases arising under the constitution and laws of the United States, since it is universally admitted that there is no obligation to restore slaves except what is found in the constitution, and no laws to compel their surrender except those of the United States. Neither can it be seriously contended that the powers conferred upon the courts by the 10th section of the fugitive slave law are not judicial powers. For whatever be the nature of the duties imposed upon the commissioners, the duties of the courts in these cases to decide, upon satisfactory proof, that the party against whom the proceedings

are instituted owes service and labor and has escaped, are certainly judicial. And such powers must be vested in the Supreme Court of the United States or in such inferior tribunals as Congress may from time to time establish and ordain. Congress might as well vest the executive powers of the United States in the Governors of the States, or the legislative powers in the State Legislatures, as the judicial powers in the State courts.

But we have abundance of judicial decisions upon this point. It has been decided in Maryland, Virginia, Ohio, Pennsylvania, New York, Connecticut and the Supreme Court of the United States, that Congress can confer no jurisdiction upon the State courts.

The decision of the Supreme Court of Maryland upon this question, was given in the following language, in the year 1817, by Judge Bland, in the case of Ex parte Almeida. After an elaborate investigation of the question he says, "The inference is irresistible that a State judicial officer can, in no instance, be called on as an auxiliary to the powers of the United States." And again he says, "Upon the whole, therefore, after carefully reviewing the reasons and principles applicable to this great question, I feel perfectly satisfied that Congress has no constitutional right *to confer any portion* of the judicial powers of the United States upon any State officer whatever, in the manner that has been attempted, by the act of Congress of 24th Sept., 1789, sec. 83."—12 Niles' Weekly Register, 231.

On another occasion the same Judge thus expressed his opinion: "Upon the whole, it does appear to me that the Congress cannot constitutionally confer any portion of the legislative, judicial or executive powers of the Union, upon any of the public functionaries of the States, either to declare, to expound, or enforce the laws of the nation."—12 Niles' Reg., 377.

The opinion of the Supreme Court of Virginia was thus declared in the case of Jackson *vs.* Row. "The judicial power, then, *the whole of it, without any exception*, is given to this Supreme Court," [the Supreme Court of the United States,] "and to those inferior Courts to be ordained and established by Congress."—National Intelligencer, Dec. 23, 1815.

Judge Story, in Martin vs. Hunter, 1 Wheaton, p. 330, uses this language: "*Congress cannot vest any portion of the judicial power of the United States, except in courts ordained and established by itself;* and if in any of the cases enumerated in the Constitution, the State courts did not then possess jurisdiction, the appellate jurisdiction of the Supreme Court (admitting that it could act on State courts,) could not reach those courts, and, consequently, the injunctions of the Constitution, that the judicial power 'shall be vested' would be disobeyed. It would seem therefore to follow that Congress are bound to create some inferior courts, *in which to vest all* that which under the Constitution is exclusively vested in the United States, and of which the Supreme Court cannot take original cognizance. They might establish one or more inferior courts, they might parcel out the jurisdiction among such courts, from time to time, at their own pleasure. *But the whole judicial power of the United States should be at all times vested, either in an original or appellate form, in some courts created under its authority.*"

And on page 334, he lays down a proposition, which shows that cases arising under the fugitive slave law, must fall under the exclusive cognizance of the United States Courts. Thus in speaking of the cases over which those courts would have exclusive jurisdiction, he says:—"In the first place, as to cases arising under the *constitution, laws* and *treaties* of the United States. Here the State Courts could not ordinarily possess a direct jurisdiction. The jurisdiction over them could not exist in the State Courts, previous to the adoption of the Constitution, and it could not afterwards be directly conferred on them; for the Constitution expressly requires the judicial power to be vested in courts ordained and established by the United States. This class of cases would embrace *civil as well as criminal jurisdiction*, and affect not only our internal policy but our foreign relations."

And again, on page 336, he says—"There is certainly vast weight in the argument which has been urged that the Constitution is imperative upon Congress to vest all the judicial powers of the United States in the shape of original jurisdiction in the Supreme and inferior Courts created under its own authority. At all events, whether the one construction or the other prevail, it is manifest that the judicial power of the United States is unavoidably, in some cases exclusive of all State authority, and in all others may be made so at the election of Congress. No part of the criminal jurisdiction of the United States can, consistently with the Constitution, be delegated to State tribunals. The admiralty and maritime jurisdiction is of the same exclusive cognizance; and it can only be in those cases, where, previous to the Constitution, State tribunals possessed jurisdiction independent of national authority, that they can now exercise a concurrent jurisdiction."

In Houston *vs.* Moore, 5 Wheaton, page 27, Mr. Justice Washington says—"I hold it to be perfectly clear, *that Congress cannot confer jurisdiction upon any courts, but such as exist under the Constitution and laws of the United States*, although the State courts may exercise jurisdiction in cases authorized by the laws of the State, and not prohibited by the exclusive jurisdiction of the federal courts."

Judge Story, in his Commentaries on the Constitution, § 1749, says, that this doctrine is upon general principles indisputable.

The Supreme Court of New York, in the case of the United States *vs.* Lathrop, 17 Johnson, 4, decided that they could not constitutionally take cognizance of cases under the laws of the United States.

Chief Justice Spencer, in delivering the opinion of the Court, says—"Indeed it appears too plain for discussion that the expression in the Constitution, 'and in such inferior tribunals as Congress may from time to time ordain and establish,' can have no reference to the courts established by the respective State legislatures; the conferring of jurisdiction on such courts, is not to ordain and establish them; *and in no sense can the State courts become the inferior courts intended in the Constitution.*"

The same principle is affirmed in the case of Davison *vs.* Champlin, 7 Connecticut, 244. Also in Maryland *vs.* Rutter, 12 Niles' Register, pages 115, 377; in United States *vs.* Campbell, 10 Niles' Register, 405; and in Pennsylvania *vs.* Rolsof, 12 Niles' Register, 139.

These conclusions are therefore established by a strong array of authorities of the highest character: 1st, That it is a wrong construction of the fugitive slave law, to hold that the State tribunals are authorized to take cognizance of cases under the provisions of the 10th section; 2d, That if Congress did intend to confer jurisdiction upon the State Courts, then the law is unconstitutional.

It follows, therefore, that the record brought up from the State of Virginia, was not legal evidence of the matters therein set forth, and ought not to have been received by the commissioner. There is no room to say that the record was made up by the Court of Alexandria County, in virtue of any powers conferred upon it by the State of Virginia, for the record itself expressly declares that it was made by virtue of the law of Congress.

But if there is any doubt as to the correctness of the foregoing conclusions, the matter is conclusively set at rest by a law of Virginia, which prohibits all State judicial officers from holding any office under the United States. Code of Virginia, c. 12, § 2, p. 84. And her Supreme Court has decided that if a Judge of the State courts should exercise powers conferred by Congress, it would be a holding of office under the United States.—*Jackson* vs. *Row*, National Intelligencer, Dec. 23, 1815. The foregoing record then was illegally made, and illegally received, and upon it Burns was illegally sent back to Virginia. For aside from this record there was not a word of testimony to prove an *escape*, within the meaning of the law and

the Constitution. The whole case rested upon the validity and effect of that record, and it was so treated by the Commissioner; and had it been rejected, as it ought to have been, Burns would now have been a free man, and the people of Boston would have been spared one of the most revolting and painful scenes which have ever been witnessed in its streets. Almost every step in the case appears to have been illegal and unconstitutional. The proceedings in Virginia were illegal. The granting of the certificate upon the record of those proceedings was consequently illegal, and the carrying off of the man under the authority of the certificate was also illegal.

This article is already too lengthy to allow us to enter upon a further examination of the principles which the Commissioner laid down in his decision. But we cannot close it without adverting to the injustice of admitting the confessions and statements of the prisoner as evidence for the claimant, while his own admissions could not, under the decision of the Commissioner, be received upon the two vital points of the case, in behalf of the prisoner; for such is the result to which his decision leads us, that he was absolutely precluded from applying evidence in behalf of the respondent.

In conclusion, without intending to impugn the motives of the Commissioner, we must say that to us it appears perfectly plain that the Commissioner has committed a fatal mistake, and has sent back Anthony Burns into hopeless slavery, when he should have been discharged. S.

MORNING ADVERTISER

JUNE 30, 1854.

Those who know the deep interest which we have always taken in the question of American Slavery, will not have inferred, because we have been comparatively silent as to what has lately been passing on the other side of the Atlantic, that we have been inattentive observers of those transactions. The Fugitive Slave Bill, which we have never ceased to denounce as the most iniquitous measure which ever received the sanction of a civilised Legislature, is beginning to produce those fruits, on an extended scale, which we have always regarded as inevitable. Our readers are familiar with the frightful inhumanities which have lately been perpetrated at Boston, by the pro-Slavery party in that place. These atrocities, with others which preceded them, and those which are as certain to follow, as effect follows its cause, are at this hour convulsing the whole social American system. Nor can those commotions, which are inspiring so much alarm, ever subside, so long as the Fugitive Slave Bill defiles and deforms the statute-book of the United States. Matters will go on from bad to worse, until the fabric of Transatlantic society is rent in pieces.

There is no language which we could employ strong enough to express our horror of that monstrous measure. It is worthy of those nether regions in which alone the idea could have been conceived. Never before did diabolical ingenuity achieve so signal a success as has followed the adoption, by the Legislature of America, of the Fugitive Slave Bill. It is a masterpiece of Satanic skill. The deliberate and deep-rooted malignity which it unfolds, has no parallel in the history of human legislation in Christian countries.

And yet we are not sure, whether, viewing the matter in all its aspects, we ought to regret that that bill has become the law of the United States. It will bring matters to a crisis. It is, at this time, precipitating a state of affairs which must terminate in momentous events. We believe the Fugitive Slave Bill is destined to be made the means, in the hands of Providence, of entirely annihilating American Slavery. It certainly has already given a heavier blow to the "peculiar institution," than that "peculiar institution" ever before received. It has drawn, and is drawing, the attention of persons to the injustice and atrocity of American Slavery, who had never before bestowed much thought upon it. And to have one's attention directed to that subject—that is to say, wherever we have an honest and intelligent person to deal with—is tantamount to an uncompromising hostility to it. Our readers, therefore, will not be surprised to learn, as they will be delighted to be informed, that the cause of Abolition on the other side of the Atlantic is, at this time, making an unprecedented progress.

And here let us say, that the leading Abolitionists—those who are heading the great anti-Slavery movement—are a noble band. It is gratifying to find that they are daily receiving fresh accessions of strength. They had long to labour alone, not only without sympathy, but in the face of an obloquy which but few men could have confronted, and an opposition which would have appalled, and deterred from their purpose, men of less elevated principles, and of inferior moral courage. From the GARRISONS, the PARKERS, the PILLSBURYS, and other leaders of the Abolitionist cause in America, we differ much on religious questions; but that is no reason why we should withhold from them the expression of our admiration of the surpassing heroism they have shown in the great moral and constitutional war which they have had to wage with the Slaveholders of the South, and the abettors and apologists of Slavery in the North. In espousing the cause of the 3,250,000 sable sons of Africa, held in bondage in the Southern States, the Abolitionists have had, for the last twenty years and more, to undergo a daily martyrdom. Talk of the martyr who dies at the stake,—why that man is immeasurably more of a hero than he, who has gone through, without murmuring or flinching in the least, a living martyrdom of many years.

The Abolitionists of America have the sympathies of all the intelligent and humane on this side of the water, but they have not received from us that practical aid which we ought long before now to have extended to them. Yet we see indications not to be mistaken, that the opponents of Slavery, in this country, will, before long, take an active part in the struggle which is now going on on the other side of the Atlantic between the friends and foes of the "peculiar institution." We shall, on an early day, direct attention to the question, Which way can this aid be most effectually rendered? The absorbing nature of the Eastern question, and the urgency of various home matters, have alone prevented our frequent reference to the increasingly interesting aspect which the question of Slavery has of late assumed in America.

In the meantime we cannot sufficiently admire the moral courage which some of the preachers of religion

are exhibiting on the other side of the Atlantic, by denouncing from the pulpit the Fugitive Slave Law, and those who become participators in the guilt of that measure by carrying out its revolting provisions. Take as a specimen of these denunciations a passage from a sermon of the Rev. THEODORE PARKER, delivered in Boston, in the presence of 3,000 people, the Sunday after the recent alarming riots in that city, consequent on the attempt to release the runaway slave ANTHONY BURNS, by breaking into the dungeon in which he was immured. "Judge LORING," says Mr. PARKER, "knew that he was stealing a man born with the same right to life, liberty, and the pursuit of happiness as himself. He knew that the Slaveholders had no more right to ANTHONY BURNS than to his own daughter. He knew the consequences of stealing a man in Boston. He knew that there are men in Boston who have not yet conquered their prejudices—men who respect the higher law of God. He knew there would be a meeting at Faneuil Hall—gatherings in the street. He knew there would be violence. EDWARD GREELEY LORING, Judge of Probate for the county of Suffolk, in the State of Massachussets, Fugitive Slave Bill Commissioner of the United States, before these citizens of Boston, on Ascension Sunday, assembled to worship God,—I charge you with the death of that man who was murdered on last Friday, night. He was your fellow-servant in kidnapping. He dies at your hand. You fired the shot which makes his wife a widow, his child an orphan. I charge you with the peril of twelve men, arrested for murder and on trial for their lives; I charge you with filling the court-house with one hundred and eighty-four hired ruffians of the United States, and alarming not only this city for her liberties that are in jeopardy, but stirring up the whole commonwealth of Massachussets with indignation, which no man knows how to stop—which no man can stop. You have done it all."

This is noble language. Had THEODORE PARKER never said or done another great thing, he would ever afterwards, in our view, be a hero of the first magnitude. In the heroic attitude in which he here appears before us, he reminds us of the indomitable courage, the unshrinking boldness with which PAUL reasoned before AGRIPPA of righteousness, temperance, and a judgment to come, until the judge trembled on the bench, and quailed under the words of the very man who stood on his trial before him.

We only wish we had a greater number of THEODORE PARKERS. Had we many such as he, the edifice of American Slavery would speedily be razed to its foundations. But we trust the crisis which has occurred, and which is daily deepening in interest, will soon summon many such master spirits and philanthropists from the privacy of domestic, commercial, or literary life, in order that, by a vigorous, united, and sustained assault on the hideous superstructure of American Slavery, it may, before long, be converted into a heap of ruins.

CITY AND SUBURBAN

THE SLAVERY QUESTION IN THE CITY COUNCIL.—The Common Council were in session at a late hour last night, and for ought we know remained in session until sunrise, in solemn debate upon Mr. Kelly's effort to propitiate Buncombe by denouncing Parker and Phillips as traitors. The order which he offered at the last meeting, to exclude them from Faneuil Hall, being ruled out, he brought forward a new proposition, viz.: That, whereas, &c., at a meeting held, &c., Phillips and Parker indulged in speeches treasonable in character, and leading directly to riot and murder, therefore, the Ordinance Committee be instructed to see what can be done about it. Mr. Kelly worked away on this topic for some time, and was in some degree sustained by Mr. Hinds of ward 8, who, however, had some objections to the order. It was postponed till the next meeting.

An order offered by Mr. Plummer, giving a vote of thanks to Rev. Mr. Stone for his oration, and asking a copy for the press, furnished Mr. Kelley with another opportunity to air his Union-saving principles, but the order was agreed to, 29 to 3.

An order concerning a vote of thanks to Col. Holbrook and the military, was under debate when we left.

Dr. John M. Moriarty was re-elected Port Physician. and Joseph Colburn was elected Superintendent of Internal Health, in concurrence.

OFFER TO SELL ANTHONY BURNS.—We are informed that Col. Suttle has written to a gentleman in this city that he will sell Burns for $1,500; and that some measures have been taken to raise the money. If the men who were instrumental in sending Burns into slavery, see fit to ease their conscience of their *crime* by paying something for his release, let them do so; but we hope anti-slavery people will give money for no such purpose. Anthony Burns is now only one out of *three millions* of oppressed Americans; the effort to save him was not because he was better or worse than any other man out of the three millions, but because for the time being he represented his unhappy race, and over him a contest could be fought which might result in a practical nullification of the fugitive slave act, and forever keep such men as Suttle from our borders. The effort failed; it has probably got to be tried over again; perhaps many times. If the anti-slavery men have fifteen hundred dollars to expend, they had better devote it to efforts which shall result in the emancipation of the *whole race* of Anthonys, or shall, at least, make Massachusetts free soil hereafter for the hunted fugitives. To pay money for Burns will be to encourage legal or illegal kidnappers to visit Boston again and again. For that sum half the slaveholders in the Union would perjure themselves, and every Virginia Court would send a forged record of a *claim* of ownership. No black man, though he were born free and had been known in Boston since his boyhood, would be safe, under this law with Loring's interpretations of it, and the bounty which the raising of this sum of money would furnish to kidnappers.

CAUGHT AT LAST.—It will be recollected that a man named William Uxford alias Sullivan, who was arrested on a charge of having made an assault on Richard H. Dana, Jr., on the 2d of June last, absconded and forfeited his bonds. It was ascertained that he went to New York and took passage in the ship Union for New Orleans. Officers W. K. Jones and Benjamin Heath started for New Orleans by land, with a requisition from Gov. Washburn on the Governor of Louisiana, and arrived in New Orleans before the Union, and on the arrival of that vessel, they arrested Uxford, and will bring him to this city for trial.

THE MAYOR'S POSITION.—The Boston Journal, in publishing Judge Hoar's recent charge to the Grand Jury, (printed in the Advertiser of the 4th of July,) in some editorial remarks, attempts to deduce from the language of two sentences of the charge, a defence of the proceedings of the Mayor, for which that gentleman, in his extremity, ought to be grateful. We do not think however, that the attempt is successful. The sentences of the charge which are alluded to are, in full, as follows:—

"There is no law in this Commonwealth by which any district, or part of a city or town, can be put into the possession of a military force in time of peace, with power to obstruct the ordinary and reasonable use of the public ways, and to prevent peaceable citizens from transacting their lawful business—merely on account of an *anticipated* riot.

"The fact that a riot has previously taken place, unless it be continuous and existing, will not alter the rule of law. And if it shall be made to appear to you that a military force has been so employed within the county of Suffolk, and any man has been assaulted or injured thereby, or forcibly prevented from enjoying his ordinary rights as a citizen, without other justification under the law, every soldier who may have committed any such act of violence, and every officer, military or civil, who shall have ordered, requested, caused, or procured it to be done, is, subject only to the qualification which I shall presently state, to be held responsible therefore."

The Journal says:—It will be seen that Judge Hoar instructs the Grand Jury that "there is no law in this Commonwealth by which any district, or part of a city or town, can be put into the possession of a military force in time of peace, with power to obstruct the ordinary and reasonable use of the public ways, and to prevent peaceable citizens from transacting their lawful business—merely on account of an *anticipated* riot." But the Judge says, in the succeeding sentence, that "the fact that a riot has previously taken place, *unless it be continuous and existing*, will not alter the rule of law." If we rightly understand the position of Mayor Smith, it was for the reason that the riots were "continuous and existing," that he called out the whole of the Boston division of the military at the time the fugitive was delivered up and stationed the troops in such a manner that they might act most effectively in preventing the consummation of the designs of the riotously disposed.

This defence might avail the Mayor if it were true, in the first place, that he called in the aid of the military to suppress *an existing riot* and not a threatened riot; and, in the second place, that *he stationed the troops* in the manner stated. But the facts are otherwise with regard to both these points, which are essential to the defence, and make the whole of it. The facts are proved by official documents, which we repeat this morning, although they have already been recorded in our columns. The following is the Mayor's precept calling out the troops:—

COMMONWEALTH OF MASSACHUSETTS.

SUFFOLK SS. Boston, May 31st, 1854.

To Major General Edmands, commanding the first division of Mass Vol. Militia.

[L. S.] Whereas it has been made to appear to me JEROME V. C. Smith, Mayor of the City of Boston, that there IS THREATENED a tumult, riot and mob of a body of men acting together by force, with intent to offer violence to persons and property, and by force and violence to break and resist the laws of this Commonwealth in the said County of Suffolk, and that Military Force is necessary to aid the civil authorities in suppressing the same.

Now, therefore, I command you that you cause the 1st Brigade and the Independent Company of Cadets to be detailed from your command, and to parade ON BOSTON COMMON on the second day of June next, at 9 o'clock, A. M. armed and equipped, and with ammunition according to law—then and there to obey such orders as may be given you according to law.

Hereof fail not at your peril, and have you then there this warrant, with your doings returned hereon.

Witness my hand and the seal of the City of Boston, this thirty-first day of May, A. D. 1854

J. V. C. SMITH, Mayor.

It will be observed that it is distinctly stated by the Mayor that the "tumult, riot, and mob" is *threatened* —not "continuous and existing"— and he commands the troops to be paraded *on Boston Common*, where there was no sign of a riot or disturbance at any time, and where they could not possibly "act most effectively in preventing the consummation of the designs of the riotously disposed," as the Journal suggests.

If it should be rejoined, that the troops were marched from the Common to State street, which was the scene of threatened riot, (if any threatened) we admit the fact, but ask by whose orders were they stationed in State street? By those of the Mayor? Certainly not. The following is the Mayor's official proclamation issued while the troops were on the Common:—

Proclamation! To the Citizens of Boston. To secure order throughout the city this day, *Major Gen. Edmands and the Chief of Police*, will make such disposition of the respective forces under their commands, as will best promote that important object, and they are clothed with full discretionary powers to sustain the laws of the land.

All well disposed citizens, and other persons, are urgently requested to leave those streets which it may be found necessary to clear temporarily, and under no circumstances to obstruct or molest any officer, civil or military, in the lawful discharge of his duty.

J. V. C. SMITH, Mayor.

Mayor's Office, City Hall, Boston, June 2, 1854.

It was by the orders of *Maj. Gen. Edmands*, then and *not* by those of the Mayor, that the troops were stationed in State street.

After all, however, we do not imagine that even the Journal supposes that the Mayor thought there was a riot existing at the time he called for the troops. The defence which is now set up in his behalf, ingeniously founded upon two sentences of Judge Hoar's charge, is an after-thought, and probably would not have been ventured before the charge appeared. Although perhaps plausible to superficial observers, nevertheless it falls entirely, as we have seen, before the recorded facts of the case.

Before leaving the subject we desire again to disclaim the slightest disapprobation of the proceedings of the individuals composing the military bodies who were ordered out upon this occasion. They simply obeyed, as soldiers should, orders given in due form by their officers Upon the Mayor rests the responsibility of the illegal proceedings of the case.

—The ungrateful Col. Suttle has published a card in the Alexandria *Gazette*, censuring Mayor Smith for not going one peg farther, by detailing a special police force for his [the Colonel's] protection during the exercise of his inalienable right to life, liberty, and the pursuit of his nigger, in the city of Boston! Col. Suttle has noticed that resolutions are being passed in Virginia, complimentary to the Mayor, among others, for his part in the late slave-catching business, and therefore enters his protest, not being satisfied with the depth of abasement to which that functionary descended on the occasion. He expresses himself perfectly satisfied with the proprietors of the Revere House, who appear to have suited his mood for proper distinction as a Virginian gentleman engaged in the constitutional and elevating amusement of slave-hunting. The proprietors of the Revere House will probably now breathe freely—the weight of suspense under which they *must* have been laboring, having been kindly lifted from their oppressed bosoms by the condescending hand of the aristocratic Colonel.

THE NOISE.—A correspondent whose brief communication will be found in another column, suggests an inquiry which should be forced home upon the municipal authorities, and that is why nothing was done to enforce the laws and ordinances which were so repeatedly and constantly violated on Monday night and Tuesday? The noise which was suffered throughout the city was disgraceful to our government, and would not have been tolerated in even a half civilized country. It must not be allowed to grow up into a custom. The firing of crackers upon the Common in the day-time of the fourth of July, is a thing which we suppose must be winked at by the officials, but there is not even the justification of usage for the ringing of hand-bells, the blowing of fish-horns and the beating of drums during the night preceding the fourth. The police were as inactive as if they were powerless. If there was not a large enough force to prevent the abuses of which we speak, the fault lies with those whose duty it is to see that a sufficient police force is provided in such cases. We have lately had a practical demonstration of how far in cases of expected difficulty in enforcing law, the municipal authorities are willing to go in summoning physical power to their aid. If we are not greatly mistaken the good people of Boston would sustain with far more pleasure the employment of a thousand special policemen to preserve order on the night preceding the fourth of July, and in case of riot then, would far more readily witness the calling out of the whole militia force,—than for the purpose of "preserving order" on an occasion like that which occurred a few weeks since. The present administration of the city government is contemptible: it makes an absurd show of strength at the wrong time and is weak when it sh uld be strong.

WASHINGTON, June 27, 1854.

A fire-brand was yesterday thrown into the Senate by the presentation of a petition for the abolition of the Fugitive Slave Law, and intimations are thrown out that a bill will be introduced to carry out the objects of the petitioners. Should there be no time for action on the bill, then it is said to be the intention of Mr. Sumner, or some of his Freesoil colleagues, to append the repeal of the Fugitive Slave Law as an amendment to the Civil and Diplomatic bill. There is, of course, no fear of such an amendment prevailing in either House, but the mere fact of its introduction is sufficient to revive the agitation of the Slavery question, and to keep it alive for the purpose of political mischief.

The repeal of the Fugitive Slave Law amounts in practice to a repeal of a clause of the constitution, and requires a three-fourths vote of all the States. Such a vote, it is clear, cannot be obtained; hence the want of practical use in this ill-timed movement. The law of 1850 did not interpolate a new law, or give a particular meaning to the constitution; it merely prescribed the manner in which the law already existing is to be executed. The debate on the subject commenced in the Senate, with considerable ascerbity of feeling, and will be transplanted to the House with still more fatal effect. It will interfere with the business of the session, and extend its time to the middle or close of the month of September.

The ten million appropriation will be brought to a vote to-morrow, and pass without doubt, by an overwhelming majority.

There is nothing warlike in the last despatches from Madrid. Negotiations for the acquisition of the Island of Cuba are certainly on foot, and will in all probability succeed, if not interfered with by the premature action of Congress. The chairman of the House committee on foreign relations is giving evidence of his wisdom and discretion by not reporting on the many resolutions referred to him on that subject. There is probably no better Saxon proverb than that of letting well enough alone.

The Homestead is still lingering in the Senate. Pray, what's the matter?

Mr. Richardson defended himself against the insinuation contained in some New York papers, that he committed a fraud (!) in the introduction of his Nebraska bill. Mr. R. pronounced the men who made such a charge as liars, and exhibited the records. The charge was not believed by a single rational person here in Washington, and was nothing but a mischievous political hoax.

"X," *of the Baltimore Sun.*

DAILY ADVERTISER.

BOSTON:

TUESDAY MORNING, JULY 4, 1854.

JUDGE HOAR'S CHARGE.—We give in another column, *in extenso*, the most important portions of the able charge delivered to the Grand Jury yesterday, by His Honor, E. R. Hoar,—a paper of the highest interest at the present time. It will be found to relate to subjects which have lately occupied the public mind. On the important and delicate questions of the relation of the military to the civil power under our government, our readers will not fail to observe that the learned Judge fully sustains the positions which have been maintained in our columns editorially and by our correspondent, P. W. C.

For readers in this vicinity it would be quite superfluous for us to say anything in attestation of the eminent abilities and profound learning of Judge Hoar, or to speak of the high respect which is everywhere entertained by lawyers and by the public for his opinions. For readers at a greater distance, where the names of our Judges are less familiar, it may not have been amiss to have alluded to these things. He was called to the Common Pleas bench about five years since, and according to a rumor which we believe to be well founded, has more than once had the opportunity of attaining higher judicial honors, but has declined them for private reasons.

We give this document a large portion of our space this morning, to the exclusion of other matter, not only because of its paramount interest, but because it is not inappropriate to a day which is the festival of liberty, but of liberty regulated by law.

JUDGE HOAR'S CHARGE.

MONDAY, July 3. The July term of the Municipal Court was opened this morning. The following individuals were duly empannelled to serve as the Grand Jury:—Messrs. Ira Carver, Wm. Davis, Jr., Thomas H. Dunham, Charles G. Emerson, Alonzo Farrar, Thomas D. Francis, Richard Hills, Henry Leach, Isaac M. Learned, James Littlefield, Albert Littlehale, Thomas J. Plummer, Edward A. Raymond, Edward A. G. Roulstone, Ebenezer Russel, Nathaniel C. Sawyer, Joseph Somes, Jeremiah Smith, of Boston, and Henry H. Hart of Chelsea.

JUDGE HOAR, after instructing the Grand Jury in the formal matters relating to their office, and in the nature and obligations of their oath, proceeded to charge them particularly in relation to the laws prohibiting lotteries, especially referring to Gift Enterprises, Gift Concerts, and other similar attempted evasions of those laws. He then spoke of the fraudulent issue of the stock of corporations, and stated the rules of criminal law applicable to such a transaction. He then passed to the law of riots; and explained to the Grand Jury the nature of a riot and unlawful assembly, giving them the rules by which they should be governed in determining who were responsible for a riot, or for a death occasioned by a riot—and to what extent—and then proceeded substantially as follows:—

Gentlemen, recent occurrences in this city have made it my duty to instruct you upon another subject, of the highest importance to the peace and security of the community, and intimately connected with principles which lie at the very foundation of our frame of government. I refer, as you already anticipate, to the relation of the military power to the civil authority of the Commonwealth. But a few weeks have gone by since the citizens of Boston saw in their midst a large body of soldiers assembled, the volunteer militia of Massachusetts, engaged, as it has been asserted, in preserving the peace of the city, and maintaining the supremacy of the laws—an honorable and responsible duty, whenever it is lawfully assumed, and faithfully discharged.

From what necessity or cause these soldiers were assembled; under what authority they acted; whether their employment and their conduct were in conformity with the Constitution and laws of the Commonwealth,—and to whom the responsibility of their acts attaches,—are questions which have been publicly discussed, and which it is not improbable that you may be obliged to investigate. The law applicable to them I shall endeavor as briefly and plainly as possible to state to you. And, gentlemen, while the chief reason for so doing is on account of the bearing it may have upon your practical duties, the occasion seems to me opportune, so far as it may aid in diffusing just sentiments and a distinct understanding upon a subject concerning which precision of ideas is so important, and upon which so many confused notions seem to prevail.

With the holiday soldier—the bright array, the martial music, and waving plumes, which most of us regard with complacency, and which afford such delight to the juvenile spectators, we are all familiar; with the soldier as the terrible instrumet of the law, the last resort of the civil government for the absolute enforcement of its authority, we are happily unfamiliar. The cases in which it has been necessary to resort to an armed force to sustain the civil government of this Commonwealth have been of rare occurrence; and when such occasions have arisen, the moderation, prudence and sound discretion of those who were entrusted with civil authority, and the firmness, forbearance, and exemplary deportment of the soldiers, have been such as to lead to no discussion as to the legality of their conduct.

It is extremely desirable, for the sake of the militia themselves, that the extent and limitations of their powers should be justly defined, and familiarly known. They wish to understand their duty and to do it. They are neither strangers, nor aliens. Their interests are identical with ours. They are some of our acquaintances, friends, and neighbors, who have undertaken a particular public service. Interested in its more exciting and cheerful aspect, they are also willing to contemplate its more serious features.—They are liable to be placed in trying situations, and upon a sudden emergency, to be required to do acts of the most painful nature. The importance of an accurate apprehension of legal rights and duties, upon such a subject, can hardly be overrated. A duty more serious, a responsibility more fearful, can hardly devolve upon man, than those which belong to the citizen soldier when lawfully summoned to aid the civil power in upholding or executing the laws. He should enter upon it in a serious and thoughtful spirit, regarding it only as a sad and terrible necessity.

Consider gentlemen, for a moment, the sacredness with which human life is invested by the law, the solemnity which the lawful destruction of it every where assumes. The life of the vilest wretch among us, who has outraged all the laws of God and man, cannot be taken in the administration of public justice, and as the penalty of his crimes, but upon proceedings where every provision that the wit of man can devise is made against the possibility of haste, or errors, or oppression. He must be indicted by a Grand Jury; the Supreme Judicial tribunal of the State must be assembled; he must be found guilty by a jury, substantially of his own selection from a large number of the most discreet and respectable of his fellow citizens, able counsel are secured for him; witnesses are provided for him at the public expense; he is to be notified beforehand of the names of the witnesses against him; and when his guilt has been fully established, no man has power to harm him, un-

til the Supreme Executive shall have determined that there are no grounds for the interposition of its merciful prerogative, and have commanded the sentence of the law to be enforced.

In self defence, in obeying the instinct of self preservation, a man must retreat as far as he can, before he may lawfully resort to a deadly weapon and slay his adversary.

But when a military force is employed to suppress a riot, a hundred lives may be sacrified in a moment —without preparation, it may be almost without warning;—the innocent with the guilty. The soldier who fires upon a mob may doom to instant destruction not only the lawless and depraved, but men of generous impulses and honest purposes—the *mistaken* —the *misled*—the *unwary*—those whom accident or curiosity have brought to the spot; perhaps his friend, his neighbor, his relative.

The public service which he is thus called upon to discharge, is a subject for no boasting beforehand, or exultation afterward. No man of right principles or feelings could regard it lightly. He should go to it as he would go to attend an execution, and return thanking God for all that he had been rightfully permitted to leave undone.

It is sometimes said that our Government rests, at least, upon military force. It rests upon no such thing. It finds its chief strength in the respect of an intelligent and virtuous people for the laws which they themselves have made; and its ultimate reliance is upon the power of the people to execute their own will. The military force which a free people allows to exist among them, it regards but as a convenient instrument.

To understand clearly the points involved in this inquiry, it will be well to recur a little to first principles

The object of a Constitution of government, is, in the Preamble to the Constitution of Massachusetts, declared to be

"*That every man may, at all times, find his security in the laws.*"

To this end two things were of the first necessity: 1. The maintenance and enforcement of such wholesome laws as should be enacted; and, 2. The protection of the liberty of the citizen from the encroachments and abuse of authority of those to whom power should be intrusted. With a view to the first, the Constitution provides for the organization and government of militia; and, in reference to the latter, the Declaration of Rights contains this article:

"The people have a right to keep and bear arms for the common defence; and as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and *the military power shall always be held in an exact subordination to the civil authority, and be governed by it.*"—[Declaration of Rights, Art. xvii.

By the Constitution, the Governor is made the Commander-in-chief of the militia, and entrusted with full power to discipline, instruct, and govern them; and to employ them against the public enemies. He is also authorized to govern them by law martial, when in actual service, in time of war or invasion, and also in time of rebellion, *declared by the legislature to exist;* with all the powers incident to his office, to be exercised agreeably to the Constitution and laws of the land.

His powers in respect to calling out the militia in case of war, insurrection, or invasion, made or threatened, are determined by law, (Rev. Stat., ch. 12, §129 and seq) and are only to be exercised by the Governor in person, or in case of emergency by the commanding officer of a division.

With the nature of these powers and duties we have no immediate concern.

I come then to the question, what are the provisions of law for the suppression of riots and unlawful assemblies, and for executing the laws of the Commonwealth, when forcibly resisted?

These are of a twofold nature;—first, the modes which the common law authorizes, in the absence of positive enactment; and secondly, the powers expressly conferred by the statutes—each being, of course, limited and controlled by the principles of the Constitution.

I have already given you the definition of a riot or unlawful assembly—and by the common law any citizen may lawfully endeavor to suppress an existing riot, by resisting those who are engaged in it, and preventing others from joining them.

A sheriff, constable, or other peace officer, may do the same, and may command all other persons present to assist them.

He may also arrest any of the rioters whom he finds committing any breach of the peace, and take them before a justice. Any Justice of the Peace who shall find persons riotously assembled, may arrest them; and by a verbal command may authorize others to arrest them; and the persons so commanded, may pursue and arrest the offenders in the absence of the justice, as well as in his presence.

The general principles of the law,—that if any person is lawfully employed and is assaulted, he may use such force as is necessary in self defence,—and that a person charged with the execution of a legal duty may repel, by force, any unlawful and forcible resistance to its performance,—apply in these cases.

The power of the Mayor and Aldermen of cities, and of the selectmen of towns, to secure an adequate civil force by the appointment of police officers, is unlimited. (Stat. 1851, chap. 162.)

The statute of this Commonwealth, which provides for calling out the militia to aid in the suppression of riots or tumults, and in executing the laws, is the statute of 1840, chap. 92, sections 27 and 29; and in all essential particulars it is an exact transcript of the 134th section of the 12th chapter of the Revised Statutes; with this exception, that it adds for the first time *Mayors of Cities* to the list of those by whom an armed force may be called out.

These sections are as follows:

Section 27. "Whenever there shall be, in any county, any tumult, riot, mob, or any body of men acting together, by force, with intent to commit any felony or to offer violence to persons or property, or by force and violence to break and resist the laws of this Commonwealth, or any such tumult, riot or mob shall be threatened, and the fact be made to appear to the commander-in-chief, or the mayor of any city, or to any court of record sitting in said county, or if no such court be sitting therein, then to any justice of any such court, or if no such justice be within the county, then to the sheriff thereof, the commander-in-chief may issue his order, or such mayor, court, justice or sheriff may issue his precept directed to any commanding officer of any division, brigade, regiment, batallion, or corps, to order his command, or any part thereof, describing the kind and number of troops, to appear at a time and place within specified, to aid the civil authority in suppressing such violence and supporting the laws, which precept, if issued by a court, shall be in substance as follows:—

————ss.

[L. S.] COMMONWEALTH OF MASSACHUSETTS.

To { insert the officers title } A. B. { insert his command. }

Whereas it has been made to appear to our justices of our ————, now holden at ————, within and for the County of ————, that (here insert one or more of the causes, above mentioned) in our County of ————, and that military force is necessary to aid the civil authority in suppressing the same; now, therefore, we command you that you cause (here state the number and kind of troops required) armed, equipped and with ammunition, as the law directs, and with proper officers, either attached to the troops or detailed by you, to parade at ————, on ————, then and there to obey such orders as may be given them, according to law. Hereof fail not at your peril, and have you there this writ with your doings returned thereon.

Witness, &c. * * * And if the same be issued by any mayor, justice or sheriff, it should be under his hand and seal, and otherwise varied to suit the circumstances of the case."

Section 29. "Such troops shall appear at the time and place appointed armed, &c. And shall obey and execute such orders as they may then and there receive, according to law."

The noticeable points of this Statute are, that it allows a military force to be called out not only when there is a riot, mob, &c., but whenever one is *threatened*; that it fixes the persons by whom the existence of the riot, &c., or the fact that one is threatened, shall be ascertained and determined; provides that the reason of calling out the military shall be stated in the order or precept; and then leaves the mode in which the troops shall be employed "to the civil authority in suppressing violence, and supporting the laws," to be fixed by the rules of the common law, or by other Statutes.

If summoned according to the provisions of this statute, when they appear at the place named in the order or precept, they are lawfully assembled;—the fact that a sufficient necessity existed for their assembling, is, so far as they are concerned, conclusively settled; and the question then arises, what may they lawfully do? To whose orders are they subjected? And how are such orders to be given?

In the first place, they have all the rights at common law, or under the general laws of the Commonwealth, which other citizens possess. "It is clear," in the language of an eminent Judge, "that the military do not lose the rights, and are not exempt from the duties of subjects, by entering into that condition."

They may occupy the place at which they were directed to appear, so long as by the orders which they may have received from the governor, judge of a court, sheriff, or mayor, or as they may there receive from any lawful authority, they are required to remain. They may march through the streets as on other occasions, not interfering with the reasonable use of the same by other persons; they may act in defence of their own persons and lives, if attacked or assaulted, using such force as is necessary and proper to repel the assailants.

They are not disqualified to act as the assistants of any civil officer, who has the right to call on the citizens to aid him in the service of any process, civil or criminal, or in the execution of his duty under the laws; and although their being engaged in military service would be a sufficient excuse for not obeying any call upon them as individual citizens, by a person not authorized to direct the movements of the collective force, yet if they should obey the call, their acts would be in no degree unlawful, so far as those persons might be concerned against whom their acts were directed. If, without objection from their commanding officer, and without interfering with their obedience to any lawful orders given them, any of them should act as individuals to prevent a breach of the peace, or to stay a rioter, or arrest a felon, the right to do so would be as unquestionably as if they wore a different dress. For every injury done to them, or indignity offered, the offending person is, and ought to be, civilly and criminally responsible, as for a like offence to any other citizen; and with this aggravation of the wrong, that the very position which the soldier occupies, and the nature of his duties, may render it difficult for him to detect the offender, and take from him the power to make any resistance to the crime.

I come, then, gentlemen, to the consideration of the farther powers for suppressing tumults and enforcing the laws, which are contained in the 129th chapter of the Revised Statutes.

The first section provides that if persons to the number of twelve or more, being armed, or to the number of thirty, whether armed or not, shall be unlawfully, tumultuously, or riotously assembled in any city or town, the mayor and each of the aldermen of such city, and each of the selectmen of such town, and every justice of the peace therein, and the sheriff and his deputies, shall go among or near the persons so assembled, and require them to disperse; and if they do not disperse, then to command the assistance of all persons present in arresting the offenders. The *second* and *third sections* provide for the punishment of officers neglecting or refusing to act, and of other persons who refuse or neglect to assist.

The fourth section authorizes any two of the officers before named, on the refusal or neglect of the unlawful assembly to disperse, to require the aid of a sufficient number of persons, in arms or otherwise, and to "proceed, *in such manner as in their judgment shall seem expedient*, forthwith to disperse" the assembly, and arrest the persons composing it.

The fifth section is as follows:—

"Whenever an armed force shall be called out, in the manner provided by the twelfth chapter, for the purpose of suppressing any tumult or riot, or to disperse any body of men acting together by force, and with intent to commit any felony, or to offer violence to persons or property, or with intent, by force and violence, to resist or oppose the execution of the laws of this Commonwealth, such armed force, when they shall arrive at the place of such unlawful, riotous or tumultuous assembly, shall obey such orders for suppressing the riot or tumult, and for dispersing and arresting all the persons who are committing any of the said offences, as they may have received from the Governor, or from any Judge of a Court of Record, or the Sheriff of the county, and also such further orders as they shall there receive from any two of the magistrates or officers mentioned in the first section."

The sixth section, which is by a subsequent statute (1839, chap. 54, § 1.) extended to all cases under the two preceding sections, provides that if by reason of the efforts made by any two of the said officers or magistrates, or by their direction, to suppress the unlawful assembly, &c., any person, though but a spectator, should be killed, the said magistrates and officers, and all persons acting under them, should be held guiltless; and, that if the officers or their assistants, or persons acting by their order, should be killed or wounded, all the rioters, and all persons who had refused to assist the magistrates or officers, should be held answerable.

It is apparent from this statute that it applies only to cases where a riot, tumult, unlawful assembly, or body of men collected with intent to do the unlawful acts referred to, actually *exists*. It authorizes no forcible acts, by way of precaution. And, gentlemen, none are authorized by law. The power to call out a military force, and hold them in readiness for the emergency when it shall arise, is given by the statute of 1840, to which I have previously referred. But the power extends no farther. And, as a practical rule, which will be decisive of some questions that may come before you, I shall instruct you, that

There is no law in this Commonwealth by which any district, or part of a city or town, can be put into the possession of a military force in time of peace, with power to obstruct the ordinary and reasonable use of the public ways, and to prevent peaceable citizens from transacting their lawful business—merely on account of an *anticipated* riot.

The fact that a riot has previously taken place, unless it be continuous and existing, will not alter the rule of law. And if it shall be made to appear to you that a military force has been so employed within the county of Suffolk, and any man has been assaulted or injured thereby, or forcibly prevented from enjoying his ordinary rights as a citizen, without other justification under the law, every soldier who may have committed any such act of violence, and every officer, military or civil, who shall have ordered, requested, caused, or procured it to be done, is subject only to the qualification which I shall presently state, to be held responsible therefor.

But it is asked, whether in a case where no man doubts that a riot or unlawful assembly is impending, the civil and military commanders are obliged to wait until irreparable mischief is done, till a prisoner is rescued, a building destroyed, or blood spilled before they can fully interpose? A sufficient answer may perhaps be found in the statement, that they may employ all the ordinary and peaceable means of enforcing the civil authority, and may have in readiness for instant employment, any amount of military force which the exigency shall demand. Further than this the law does not go, and the magistrate or officer cannot. It may seem to many worthy and prudent men that more power should be granted—but it has not been thought necessary or expedient by the framers of our Constitution and laws. The principle of American institutions is not restraint—nor intimidation—but responsibility for acts done. In relation to freedom of speech, for example, and of the press, we do not, as in some countries it is done, establish a censorship, and determine beforehand what shall be spoken or published, but we leave men free to say or print what they please, and hold them accountable for any abuse of the liberty.

In the next place, gentlemen, the statute confers *no discretionary power* upon any military officer, under the commander in chief, nor can any be lawfully conferred upon him, except as to the details of executing a specific service, upon which he is lawfully ordered. And this is in strict conformity with the requirements of the Constitution, "that the military power shall always be held an exact subordination to

the civil authority, and be governed by it." It is for the civil magistrates only to determine whether an unlawful assembly exists, and whether military power is needed to suppress it. If any civil magistrate should direct the commander of a military force, lawfully called out to aid in suppressing an anticipated riot, to take possession of a city or district, dispose his force therein as he should think expedient, and then, whenever in his judgment a riot should commence, or an unlawful assembly be gathered, to fire upon or disperse it—leaving the whole question of the occasion and the necessity to the discretion of the commander—such an order would be of no legal validity, and the military officer could not justify any act done under it, which would not have been legally justifiable if no such order had been given.

The details of military service must of course be left to the officer commanding the troops—but the service required must be designated by the civil authority. Thus when a riot exists, the civil magistrates competent to act, may say to the officer, clear this street—dislodge the occupants of this building—disperse this assembly—arrest these riotors—protect these buildings—and the officer receiving the order may employ his force to execute it in such a manner as he may think best. He may send one file of men or ten; he may charge with bayonets or sabres; he may fire blank cartridges or bullets; he may, unless the order is countermanded, decide how many times he shall charge or fire, and when the assembly is sufficiently dispersed. But a general direction to preserve the peace of a city, and sustain the laws, can give to a military force no new protection or power.

On the other hand, if the orders given proceed from a competent civil authority;—although, in my judgment, the law clearly contemplates that the resources of the civil power should usually be applied so far as they reasonably can be, before resort is had to the military, yet a discretion is given to the civil magistrates to determine when military force is needed—and even if they have judged erroneously, the soldier who obeys these orders is protected—and the correctness of the decision cannot be questioned to his prejudice.

The statute further provides, that the discretion in the use of an armed force which it confers, shall be exercised by two of the officers named in the first section jointly. It cannot be assumed by one alone. And further, the action of the two must be direct and positive. It is not sufficient that one shall be merely consulted by the other, and approve, or not object. Both must act. Both must assume the responsibility. It must be the order of both. Not that both must speak or write, but if one speaks for the two, it must be with a direct authority to speak in the name of the other.

The law plainly requires that both should be *present*. Not, of course, that they should be between the soldiers and the mob, not that they should ride with the military commander, or charge with his troops—but *present*, in a reasonable sense of that phrase applicable to the nature of the case; *present*, as a commander is present on the field of battle; *present*, so that they can have personal cognizance of the fact that military force is necessary; that they may direct its application, and be enabled to decide upon new exigencies as they arise, and to determine when the terrible necessity is ended.

There is, in my judgment, a strong and clear implication from the language of the 12th & 129th chapters of the Revised Statutes, although not so distinctly expressed as would be desirable, that the Governor, Judge of a Court of Record in any county, or Sheriff, may not only call out the militia, but in case of an existing riot, may give specific orders in regard to its suppression. This view is confirmed by the statutes of 1839, chap. 54, sect. 1, of which a part of the provisions could hardly have any intelligible effect, if it were not so. It is the general duty of the Governor to cause the laws to be executed, and it is a common thing to invest the Judge of a Court of Record with powers which it requires two inferior magistrates to exercise. It also seems to me that the actual presence of these higher officers of the State could not be contemplated or required. They must act upon evidence and information; and the Legislature must have supposed that the nature of their ordinary duties, and their relation to the Commonwealth, would ensure a competent knowledge of their legal power, and caution in its exercise.

The question, has, I believe, no immediate practical bearing—but a statement of it seemed necessary to a complete view of the subject.

In Suffolk County it could hardly arise, except in the case of the Governor or a Judge; as there is probably never a time when some Judge of a Court of Record is not found within this city, and the Sheriff would not therefore be called upon to act alone.

Another question of much practical importance is, how far the private soldier or the inferior officer is answerable, for an act of violence done in obedience to the command of his superior, that command being given without lawful authority? If a captain order his company, who have been lawfully called out to aid the civil authority, to fire upon a crowd or to drive back any persons who are passing along or across a street, or to clear a building, or the like, and the captain has no order from the commander of the force which would authorize him to give such a direction, or the commander himself has no legal authority from the civil magistrates, would the private soldier who should in good faith obey the order, be protected? Unquestionably the person with whom the illegal order originated would be responstble to the fullest extent; and in respect to the subordinate, I shall instruct you substantially in the language of a recent decision of the Supreme Court of the United States.

Upon authority, and upon principle, independent of the weight of judicial decision, it can never be maintained that a soldier or military officer can justify himself for doing an unlawful act, by producing the order of his superior. The order may palliate, but it cannot justify. If the power exercised by the superior were within the limits of a discretion confided to him by law, the inferior would be justified by the order, even if the commander had abused his power. But I have already said that the law does not confide to him a discretionary power, except as to the mode of executing the lawful commands of the civil authorities. But there are cases when the soldier may be called upon to act in a sudden emergency, without the possibility of learning with absolute certainty the origin of the orders given him. If, in such a case, the subordinate acts in *good faith* and with *due diligence*, acting upon such information as he had a right to rely upon, and upon all the information reasonably in his power to obtain, and which, if reliable, would render his act legal, the order of his superior will exonerate him from any *criminal* responsibility, although the information should afterward be discovered to be false or erroneous.

A point which may incidentally arise, respects the occasion upon which the troops were called out on the 2d of June last. It may be found that they were called out in aid of the civil authority, to preserve the peace of the city, which was endangered by a threatened resistance to the execution of a process of the United States. A few words upon this subject are all that are necessary.

We are all of us not only citizens of Massachusetts but citizens of the United States. Our relation to the Government of the United States is a relation as individuals, except where the Constitution and laws of the Union have otherwise specially provided. The State militia cannot, as an organized force, be legally called into the service of the United States, except by a requisition of the Pesident of the United States upon the Governor, and according to the Constitution and laws.

Our State officers have nothing to do, in their official capacity, with executing the laws of the United States. United States officers, if resisted in the discharge of their duty, may call upon citizens of the State to aid them in executing process and it would be the duty and right of each citizen to obey the call, unless he were lawfully excused. A lawful excuse would be that the person whose aid was required was engaged in a public duty under the Government of the State. Congress may confer upon officers of the

United States powers to prescribe duties which are analagous to those of certain classes of State officers; but this can apply only to the discharge of their official duties under the laws of the United States, and can give them no authority to interfere with the execution of State laws, or to control or exercise any authority over any State organization, or to assume the specific functions of any State officer.

But on the other hand, all acts done by an officer of the United States in the discharge of his duty are to be regarded as lawfully done under the laws of a State. And if, in resisting the execution of the laws of the United States, any breach of the peace should occur, or any other violation of State laws, it is the duty of the State officers to repress or punish it as they would if it were happening to the injury or disturbance of any other citizens lawfully employed.

Thus, to apply these principles, the United States Marshal of a district has no official relation, as such, to a Massachusetts Justice of the Peace, or to the Mayor of a city, or Sheriff of a county. He cannot call out the militia of a State, nor give them any legal order when mustered, either alone or in concurrence with any State officer. Although Congress has conferred upon him the authority of a Sheriff, this obviouslycan only mean the same functions in executing the laws of the United States that a Sheriff has in relation to the laws of a State. He cannot serve a writ from a State Court, nor undertake to execute a State law. But these principles are too clear and well settled to require further illustration. And, now, gentlemen, it remains for you to apply the rules of law which I have given you.

If our citizen soldiers, lawfully mustered in the public service, have been assaulted or injured, see to it that the aggressor, if he can be discovered, shall not go unpunished.

If it shall be made to appear to you that any assault has been committed, or violence done, or forcible obstruction of lawful business occasioned, by any part of the military force, "diligently enquire, and true presentment make" concerning it. Ascertain under what order or by what authority it was done. Trace it to its source. Consider what is its justification. Extend the full protection of the law to every thing which a liberal construction of the law can justify or excuse. But if you find the law has been violated, and that there has been an invasion of private rights, or an infringement of public liberty, do your duty as you have sworn to do it; and "leave no man unpresented, for love, fear, favor, affection, or hope of reward."

It may be said that there was a great public exigency, an imminent danger; that riot and bloodshed were prevented; that there has been no considerable destruction of property, no serious personal injury inflicted, no sacrifice of life—and that it would be harsh and unwise to subject to criminal responsibility those who have acted with general good intention. Gentlemen, this is a very superficial view of the matter. All right minded men are opposed to lawless violence The whole community cry out against it. But when law is disregarded by its own guardians and supporters, it is "wounded in the house of its friends," and all sentiments of reverence for law in the public mind are weakened.

The old Latin maxim tells us, oppose beginnings — "*Obsta principiis*" Occasions where the gravest consequences have not followed, and the strongest passions are not excited, are the best to establish principles, and define duties.

And if the facts which shall be laid before you require it, I have no doubt, gentlemen, that you will be ready to show to the people of the State, that laws are not made for those only who crowd the gallery or fill the dock; that whenever the strong arm of power has been raised without justification, and any citizen has suffered in his person or property, the whole community feels the wound, and that the justice, which is no respector of persons, will allow no military or civil title to give immunity to the transgressor.

In the Circuit Court of the United States, yesterday, Judge Sprague presiding, the case of Captain Kehrman, master of the slaver Glamorgan. The Jury returned a verdict of guilty, and the deft. was sentenced to pay a fine of $1000, and to be imprisoned three years in Boston jail.

B. F. Hallett for the U. S.; J. Hardy Prince for the deft.

Jno. McCormick, mate of said vessel, and indicted for the same offence, was tried and found guilty.—Sentenced to pay a fine of $500, and to six months imprisonment in Boston jail. Same counsels as above.

The Court then adjourned to first Monday of Aug., at 10 A. M.

The July term of the Court of Common Pleas for Suffolk, will commence this morning, and be adjourned immediately by the Sheriff until Wednesday (tomorrow) at 10 o'clock A. M., when the old docket will be called. The Jury will be in attendance on Thursday, July 6th, and Thursday, Friday and part of Saturday (if necessary) will be spent in trying such cases as in the opinion of the Court justice requires to be tried. Writs may be entered on Wednesday.

FLORIDA WHIGGERY.

The Florida central whig organ, seeming to be in the dark as to the present whereabouts of the whig party, suggests a gathering of the Florida clans, that noses may be counted and an observation had. It says:

"WHERE ARE WE?—Let us, as the sailors say, 'pause for a moment and begin to bring up our dead reckoning, and see where we are.' The declaration is constantly being rung into our ears that the 'whig party is no more.' We have for some time past been fully impressed with the belief that it was in a very sickly state. In fact, recent developments have been received, by some wiser than we, as furnishing the most conclusive evidence of its final dissolution. If, indeed, the vote on the Nebraska bill is to be received as a true test of whig orthodoxy, then there is no whig party at the North. If our memory is not at fault, not a single whig from the free States voted for that measure. Without a solitary exception, so far as we are informed, the whole whig press of the North made war against it. They tell us, in the most emphatic language, that the passage of that 'infamous bill' wrote out, in characters as legible as the noonday sun, the final divorce between the two sections. Nay, more: they swear as terribly as did Uncle Toby's army in Flanders that the disgrace shall be wiped out from the statute-book. Foiled in their factious efforts to defeat the passage of the bill in the House, they give notice that they appeal from the decision of Congress to the hustings, where agitation is to be reopened, and every man from the free States who dared, as a matter of even-handed justice to the South, to vote for that bill, is to be hunted down and branded as a traitor to freedom. In future, they tell us that the motto inscribed on their banners shall be repeal—the repeal of all compromises, the fugitive-slave law included. They threatened to repeal this law in '50 and '51, and the whole South told them to do it at their peril. Let them dare either to repeal or essentially modify that law, and they would strike a chord that would at once vibrate through the whole South, and unite her people as one man in defence of their just rights. But they not only threaten us with the repeal of that law, but to erect a brass wall between the free and slave States. No more compromises with the slave power. Such is not only the language of Seward, Greeley, & Co., but the Union men of '50 have become swallowed up in the strong tide of free-soilism. * * * We should, therefore, in view of the present aspect of affairs, like to see the whig party of Florida meet and consult together for the purpose of taking an observation. It is time for us to know on what ground we stand. True to our principles, true to the whole country, it behooves us to know who are our friends and who our enemies."

WHIGGERY AND ABOLITIONISM IN MASSACHUSETTS.

The whig State central committee of Massachusetts have issued an address which for fanatical violence will hold doubtful competition with the tirades of Theodore Parker or Wendell Phillips. The road from Massachusetts whiggery to Massachusetts abolitionism was very short, and the committee have travelled it by a single stride. After indulging in the choicest strain of fanatical abuse of the Nebraska bill, the committee acknowledge the identity of whiggery and abolitionism in the following emphatic language:

"Upon the recklessness, the perfidy, and the infamy of this deed, it is needless to enlarge, because upon these characteristics of the act there is no difference of opinion among the whigs of Massachusetts, or of any of the free States. And if there be one among us who does not regard himself and his party as absolutely released from every contract, compromise, or understanding, moral and conventional, expressed or implied, upon the subject of slavery, the plain and direct provisions of the constitution always excepted, we can only say that his name has been unspoken in our ears."

This is not only whiggery abolitionized, but abolitionized and steeped in treason. Even the Boston Courier is constrained to admit the fact that a spirit of disunion is prevalent in Massachusetts, and undertakes to persuade its whig brethren to pause and reflect upon the fearful tendency of their course. The New York Commercial Advertiser, as zealously attached to whiggery as the Boston Courier, and as earnest in its opposition to the Nebraska bill, exposes and rebukes the logic and the morality of the Massachusetts whigs as follows:

"But we protest against its being put forth as whig doctrine, that because one law on the subject of slavery has been repealed by Congress, therefore we are 'absolutely released' from all obligation to obey those laws on the same subject which have not been repealed—for such we take to be the obvious meaning of this passage of the address. The Missouri Compromise has been repealed; therefore we are 'absolutely released' from obedience to the fugitive-slave law! If such is not the meaning of the passage we have quoted, then the whig State central committee of Massachusetts must pardon our obtuseness of comprehension.

"But if it is the meaning, then we respectfully submit that those gentlemen have uttered in the name of the 'whig party of the free States,' sentiments that the whigs of this State will not, cannot, endorse; sentiments which this journal at least—and we have been true whigs for half a century, consistent whigs up to this hour—utterly repudiates and abhors. The repeal of the Missouri Compromise was a flagrant wrong to the free States, undeniably; but that does not justify the whig party in doing wrong likewise; and to act as though 'absolutely released' from all obligation to fulfil compacts and obey laws would be a great wrong. Moreover, the Missouri Compromise was *repealed* in a constitutional manner—the fugitive-slave law has *not* been repealed—and as whigs, and as citizens, we cannot counsel disobedience to existing laws. Had the address urged the repeal of all laws on the subject of slavery—of all compromises, compacts, and obligations binding the free States more or less to its support—the case would have been different. But it is *not* whig doctrine that a breach of faith on the part of the adherents of slavery 'absolutely releases' the opponents of slavery from *keeping faith* with respect to the obligations that remain."

CONNECTICUT LEGISLATURE.

HARTFORD, June 29.—Resolutions have passed the house of representatives, censuring Senator Toucey for his course on the Nebraska bill.

A bill has also passed the house which virtually nullifies the fugitive-slave law.—*Telegraphic Despatch.*

The legislature that can censure the patriotic course of so upright and fearless a public servant as Isaac Toucey, can furnish no better comment upon such a text than by following their censure by the solemn repudiation of a law based upon the requirement of the national constitution.

DISUNION IS THE DESIGN OF THE COALITIONISTS.

It should be distinctly understood that the proposition to restore the Missouri restriction by the repeal of the Kansas and Nebraska act is a mere cover to a deliberate design which has for its ultimate object a dissolution of the Union. We do not mean to assume that this design is cherished by all who have espoused the proposition, but we do mean to affirm that the active, efficient, and prominent promoters of the issue of "repeal" are actuated by a fixed purpose to sever the bonds which unite the North and the South, the East and the West, in one great confederacy. That the repeal of the Kansas and Nebraska law is presented as a cover to some broader and deeper design is demonstrated by the fact that it is known by all that the proposition is wholly impracticable. What that broader and deeper design is can be ascertained and exposed with unerring certainty by combining together a few well-established facts and circumstances, from which the lurking treason becomes a palpable deduction.

It will at once be conceded that the abolitionists proper—the Phillipses, the Parkers, and the Garrisons—are the most clamorous, uncompromising, and prominent originators and advocates of the repeal proposition. And yet it is not less notorious that with this class disunion has long been a fixed and avowed sentiment and purpose. Can any one suppose that, after having warred strenuously for years against the Missouri Compromise, the abolitionists are now advocating its restoration, with no broader or deeper design than to exclude slavery from Kansas and Nebraska?

Next in clamorous prominence amongst the advocates of "repeal" stand the political abolitionists—a class which possesses and exerts ten-fold more influence than the abolitionists proper. The editor of the New York Tribune, Horace Greeley, is the accredited organ of this class. It is mainly through this channel that the Sumners and Chases and Sewards are organizing their forces upon the new issue. Looking upon the Tribune as the recognised mouthpiece of this most dangerous band of conspirators against the peace and quiet of the country, we have sought to keep our readers advised of its treasonable avowals and schemes. We have deemed it useful, by way of warning, to hold up to view its infamous sentiments, upon the same principle, and for the same object, that the patriot recurs to the execrable treason of an Arnold. It will be recollected that it was in this journal that a series of elaborate editorial articles lately appeared, in which a spirit of disunion was coolly and earnestly invoked upon considerations purely local and sectional. We denounced these treasonable appeals at the time, not because they were deserving of notice as the individual sen-

timents of Horace Greeley, but because, if the articles were not actually written by some one of the more respectable leaders, they were believed to speak their views. It was this same journal in which the horrible suggestion appeared as to setting fire to the Capitol, and defeating the passage of the Nebraska bill by burying the friends of the measure beneath its crumbling ruins.

Let it now be borne in mind, that upon the passage of the Kansas and Nebraska bill the Tribune took the lead in urging a resort to the issue of repeal, and from that day to this has persisted in seeking to merge all other questions in that of opposition to the Nebraska act.

It has not hesitated to unwhig itself and give up every distinctive principle of its old party, in its eagerness to unite all the opponents of the Nebraska bill into one compact sectional organization. The question naturally presents itself: Has the Tribune abandoned and sacrificed all its party principles and predilections *with no broader or deeper design* than the restoration of the Missouri restriction as to Kansas and Nebraska? Was it simply for this that the editor prepared his elaborate articles in favor of disunion? Or does he now labor to unite the opponents of the Nebraska bill on the issue of "repeal" as a means of ultimately consummating his disunion scheme? We leave the answer to these questions to the sober judgment of our readers.

We might go on to enumerate other evidences of the existence of a disunion design covered up in the "repeal" issue, by calling attention to the results of the coalition wherever it has yet been successful. It will be sufficient to allude to the late treasonable legislation in Connecticut, where an open and defiant spirit of hostility to the Union has displayed itself. Just such a coalition as now rules and disgraces Connecticut, the Tribune lately urged the opponents of the Nebraska bill to consummate in the State of Michigan. It did not hesitate to counsel the whigs of that State to enter into the most bare-faced bargain with the abolitionists—to adopt the ticket of the abolitionists for State officers, and to obtain therefor the consent of the abolitionists to surrender to them the congressional officers. Just such a senator as the coalitionists of Connecticut have chosen to the United States Senate from that State the Tribune would have the coalitionists of Michigan to send in place of General Cass! But why does the Tribune desire the Congress to be filled with coalition senators and representatives? Is it with the view of repealing the Nebraska act? The very supposition is too absurd to require an answer. The plain purpose is to drive out of Congress every national senator and representative, by the formation of a strictly and purely sectional party, based at first upon the issue of "repeal" of the Nebraska act, but looking to the necessary consequence of two great parties arrayed against each other upon exclusively sectional and geographical grounds—*a dissolution of the Union.* That we are not mistaken in this view the developments of each day fully prove. To what other result than disunion could Mr. Sumner look when he avows, in the face of his solemn oath, in the Senate, his disregard of the obligation imposed upon him by the constitution, and by his oath to support that constitution? What other than a spirit bent on disunion could have dictated the late anti-Nebraska address, which seeks, with singular adroitness, to divert attention from its own treasonable designs by intimating similar designs against the friends of the Nebraska bill?

But we deem it unnecessary to adduce further circumstances in support of the position th[illegible] is a broader and deeper design than the mere restoration of the Missouri restriction covered up in the "repeal" issue. We need not rely upon mere circumstances, as conclusive and overwhelming as they are, in sustaining our position; we have proof of a direct and positive character with which to confront and overwhelm the traitors. We have already alluded to the counsel volunteered by the Tribune to the whigs of Michigan in regard to the adoption of the abolition ticket in that State. In answer to this counsel, the Detroit Advertiser, one of the whig organs of that city, makes the following startling revelation:

"During the discussion of the measure—repealing the Missouri Compromise—a series of articles appeared in the New York Tribune, coolly calculating the value of the Union, and arriving at the sage conclusion that the separation of the North and South would be a loss to each individual in the free States of *forty cents.*

"About this time—as we are informed by authority in which we place *implicit confidence*—a meeting of the proprietors of that paper (some twenty in number) was called to decide what path to pursue if the Missouri Compromise should be repealed. Horace Greeley contended that a course should be adopted calculated to lead to the DISSOLUTION OF THE UNION. This proposition met with the approval of a majority of the stockholders, and an arrangement was made by which the *disunionists* were to purchase the interests of their co-proprietors. Such is the spirit that animates, and such is the motive that controls, the conductors of the *New York Tribune,* which comes to the aid of its namesake—the Detroit Tribune—and in a dictatorial tone gratuitously offers its advice to the whigs of Michigan about their local affairs."

Bearing in mind the fact already stated, that the Tribune is the acknowledged organ of the political abolition leaders—the Sumners, Chases, Wades, Sewards, Giddingses, &c.—this disclosure of the Detroit Advertiser is invested with peculiar importance. "*Horace Greeley contended that a course should be adopted calculated to lead to* THE DISSOLUTION OF THE UNION!" There is the treason confessed and proved! This revelation is made by a whig editor, who was appealed to by the Tribune to enter into the coalition with the abolitionists. He makes the disclosure upon authority in which he places *implicit confidence.* It is in strict accordance with the circumstances to which we have pointed as indicating a broader and deeper design than the mere restoration of the Missouri restriction. Neither whig nor democrat can now enter this coalition without incurring all the odium of encouraging a scheme to dissolve the Union.

Without pursuing the subject further at present, we cannot close our remarks better than by quoting the following comments on the late anti-Nebraska address by the intelligent correspondent of the Journal of Commerce, who writes from Washington, under date of June 28, and says:

"The address of the anti-Nebraska whigs, signed by Senator Foot, of Vermont, as chairman, is intended to connect and identify the whigs of the North with the abolitionists. This appears from the whole tenor of the address, and from the cold reception which it has met with from the majority of the anti-Nebraska members. I presume that but very few members have signed it, and not a single democratic member. Senator Wade, of Ohio, avowed in his place the purpose of uniting with the abolitionists, and was commended for his ardor more than for his discretion. He is a signer. I was sorry to hear Mr. Rockwell express in his speech of yesterday his approbation of the address. The statements and allegations of the address are exaggerated and absurd. It imputes to the South a grand and ridiculous scheme for extending the empire of slavery, and subjecting the North to a condition of dependence, or of withdrawing from the Union.

"Of course, the object of the representation is to excite the passions of the North and prepare them for subjection to the rule of the new party, to wit: the coalition of which Senator Wade declared himself to be a member—the abolitionists and a portion of the old line of anti-slavery whigs.

"[illegible]

...ne address, after stating the evil of which they complain—that is, the final enslavement of the people of the free States by the slaveholders—proposes a remedy, to wit: the repeal of the Nebraska bill. Of course, the remedy would be inadequate to the evil, and its suggestion is deceptive. These men intend and propose to form a disunion party, and to bring about a separation of the northern from the southern States, and make themselves rulers of the non-slaveholding States.

"The reason is apparent. The abolitionists, as a party, have not, except to a limited extent, obtained politieal power in the northern States. The whigs, who sympathize with them, have been equally unsueeessful in their sehemes to obtain power. When they took up a eandidate at the late election for the presidency, on the ground that he should be uneommitted against them, they met with so signal and overwhelming a defeat, that they were, from that moment, disorganized as a party, and no resouree was left to them but to take a seetional eourse. Many did this; but others were driven over into the ranks of the abolitionists, where they now stand; and this anti-Nebraska address, written by Mr Campbell of Ohio, and signed by Solomon Foot of Vermont is the exposition of their principles and objects.

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SAVANNAH, GA.:

TUESDAY MORNING, JUNE 27, 1854.

The North and the South in the Revolution.

There are some misstatements, which by the frequency of their repetition in the North, not only obtain belief there, but among ourselves. Take as an example the following assertion of one of the most widely circulated and influential papers of the Northern States:

The army and navy of the United States are recruited as far as the men are concerned, almost exclusively from the North. *So was it during the revolution. Massachusetts gave more troops to the American armies than all the South put together!*

These statements and others like them, tending to the disparagement of the South as compared with the North, have been allowed to pass without contradiction or examination until few probably doubt their correctness. Yet if false, they are not harmless:—though, without reflection, they may seem so. If the South and the North (which Heaven grant!) are to live in harmonious association, it is all important that misrepresentations calculated to destroy the respect in which one section should hold the other, be not allowed to go without exposure.

It may indeed be true that in recruiting the army of the United States, *in time of peace*, the men come "almost exclusively from the North." But is it so in time of war, when battles are to be fought, death to be faced, life to be lost, and glory to be won? Of the soldiers who went to Mexico, there to die in the hospital or on the battle-field, no one will contend that an undue proportion came from the North. So in relation to the second war with Great Britain.—Were one to go to the trouble of an investigation, we do not doubt that it might be shown that the single State of Kentucky furnished more men who fought and who fell in that conflict than all New England; notwitstanding the fact that Canada and our Northern frontier was the theatre of most of its battles. It would, however, be a thankless task to hunt up the statistics necessary to establish the correctness of this opinion, conclusive as they may be.

On the other hand, as regards the quota of men contributed respectively by the North and the South to fight the battles of the revolution, so much has been said—not with a view of establishing a historical fact, but by way of comparison to the disadvantage of the latter—that assertions like that contained in the last sentence of the above extract should be examined and their falsehood exposed. We find this done with sufficient ability in a number of the Richmond *Examiner*. which appeared months since. The article of the *Examiner* was in reply to a passage contained in a lecture of the Rev. THEODORE PARKER. PARKER'S statements were so nearly identical with those of the editor from whom we have quoted, that a reply to one will dispose of the other.

The *Examiner's* editorial brings before us some curious scraps of revolutionary histoy, sufficiently well attested, however, as they rest upon such authority as WASHINGTON and GREENE. We are sorry that its author in penning it, should have allowed himself to indulge in language of so much bitterness. His indignation, however natural in reply to such assaults as PARKER'S, adds nothing to the overwhelming force of his facts.

Here is the article with the omission of a few paragraphs:

"He contended that even in war the North was superior to the South, and though Webster said that in the Revolution, the States of Massachusetts and South Carolina stood shoulder to shoulder, they knew from records that at the time Massachusetts gave 83,000 men, while South Carolina gave but 6,000, and that was the way they stood shoulder to shoulder."—*Lecture by Theodore Parker, reported in the New York Tribune.*

The sentences which the reader finds at the head of this article, are extracted from a very choice specimen of Yankee braggadocio. It is taken from a lecture delivered by Theodore Parker before a New York Institute, and reported in the N. Y. Tribune. Said lecture consists of a parallel between the Northern and Southern States of this Union, drawn with the purpose of blackening and belittling the latter, composed of contemptible falsehoods, and executed in a spirit of small sectional meanness, malignity and vanity, unworthy a man of letters, unworthy a man of sense, nnworthy a Christian, and unworthy a good citizen.

After asserting that New England has produced all the patriots, philosophers, sages, ships, commerce and prosperity of this country, he continues his parallel into other affairs. Yankees are braver than Southern people, fight better, and gained the Revolutionary war. Massachusetts furnished 83,000 troops to the Continental army, and South Carolina only 6,000.

We propose to examine these assertions. The reader may think it scarcely worth while to pay attention to such fanattcal blackguardism; but we do so, because they embody several monstrous absurdities of fact and theory which we have latterly found very prevalent among Northern people.

We presume the assertion that Massachusetts "*gave*" 83,000 troops to the Continential Army, is a mistake of the types. We never saw the claim advanced before for more than 67,000.—That is the number set down in Hildreth's History, the standard New England authority, Vol. III; and that was the number claimed by all other authorities on the subject. We shall therefore assume that where the report makes Mr. Parker say 83,000, he did say 67,000.

In that form we pronounce it to be equally a *suggestio falsi* and a *suppressio veri*, both as to South Carolina and Massachusetts. It is quite true that the records show that Massachusetts enrolled 67,000 men on the lists of the continental forces: while South Carolina only 6,600. But there was this difference between them—that the soldiers of Carolina were all really in the continental line, engaged in active service in all the colonies; while 67,000 Massachusetts men were in her fields, her saw-mills and her shops, and never saw a camp save when they come to sell something there.

These 67,000 men were simply the militia of that State, who were all nominally enrolled at the beginning of the Revolutionary war, and who all put in claims for pay and pensions after it was over, but who could never be gotten into the field at all while it was going on. South Carolina had a civil war of her own; and her militia was engaged in it; therefore no such enrolling of it into the continental line took place. But she did furnish 660 to the actual continental service, while the Massachusetts array was merely nomin-

This we shall prove. The following table, taken from the common Encyclopædia Americana, (Art. United States) disputed by nobody, shows the number of men from all the States together, constituting the whole actual continental force in each year of the war:

TROOPS EMPLOYED.

	Continental.	Militia.
1775	27,443	
1776	46,901	26,060
1777	34,750	10,112
1778	32,899	4,353
1779	27,699	2,429
1780	21,115	5,811
1781	13,832	7,398
1782	14,256	
1783	13,076	

This table makes perfectly manifest the absurdity and falsehood of the assertion that Massachusetts gave 83,000 soldiers to the continental line. For the *whole* line, containing in it the quotas of all the thirteen States, did not contain more than *half* that number of men in any year of the war. Their enrollment was evidently merely nominal. This great Yankee army existed only on paper, and was never heard of at all till the Pension Act was passed by the Congress of the United States.

What was the actual contribution of Massachusetts in the continental army? To answer that question, we shall ask it of one who, although a Southern man, and probably a very little person in the estimation of a warlike modern Yankee preacher, yet was thought to have known something about the continental army. He was once called Gen. Washington. The correspondence of this gentleman, written while the war was going on, has been printed in a book by Jared Sparks, a Massachusetts Yankee preacher like Parker—less ferocious, however. Mr. Sparks has confessed in his controversy with Lord Mahon, that he has suppressed more than one passage in these letters about Massachusetts' people, because *he* thought them "unjust" and "severe." But enough remains to give an idea of the actual force which Massachusetts "gave" to the continental line. Sparks has endorsed the facts they contain in a "life" of the author, and from this, for convenience sake, we will quote an extract.

The first scenes of the war lay in New England. Boston, the heart of Massachusetts, fell into the hands of the British. Washington, that meek Southerner, whom Yankees "excel in war," came there to get it out. To do this he had to raise an army. *Then*, if ever, the reader has a right to think that great multitude of warlike Yankees talked of by Hildreth and Parker, would have been seen, or at least heard of, in the neighborhood. But what says Sparks?

"The enlistments in the new army (the leaguer of Boston in progress) went on slowly. The dissatisfaction and cabals of the officers, the exacting temper and undisciplined habits of the men, occasioned endless perplexities. General Washington felt intense anxiety. His patience and fortitude were tried in the severest manner. A month's experiment had obtained only five thousand recruits. At one time he was flattered with promises, at another almost every gleam of hope was extinguished, till, at length, when the term of services of the Connecticut troops was about to expire, it was ascertained that they would go off in a body, and leave a fearful blank in an army already defficient in numbers, and weakened by internal disorders. He appealed to every motive, which could stimulate their patriotsm, pride, or sense of honor, but all in vain!"

Now we ask the reader to consider what the facts here stated signify. Here the chief city of New England was in the hands of the enemy, and the Southern Chief trying to deliver it: He calls on New England for troops—and Massachusetts was part of New England then, was it not? Out of all New England he could not get five thousand men into the actual line to fight for their own capital! Alas! Babylon that great city—how is it fallen! Where was Mr. Parker and his 83,000, or Mr. Hildreth and his 67,000 warlike Yankees then? In "buckram," we fear.—The war was there then in Massachusetts—but they were not. How then was Washington able to make up his lines there before Boston?

"The army was soon augmented," (says Sparks) "by the companies of riflemen from Virginia, &c.—The companies were filled up with surprising quickness, and, on their arrival in camp, the number of several of them exceeded the prescribed limit."

Oh, Parker! Eighty-three thousands Massachusetts *pensioners* [that were to be] looking on from the hills while rifle companies were pouring in all the way from Virginia to defend the very place in which *you* were afterwards to "lift your head and lie" on them! Let us hear what Greene, the Rhode Island General, wrote in a letter at the very time:

"In my last, I mentioned to you that the troops enlisted very slowly in general. I was in hopes then that ours, (Rhode Island,) would not have deserted the cause of their country. But they seem to be so sick of this way of life, and so homesick, that I fear the greater part, and the best of the troops from our colony will go home. The Connecticut troops are going home in shoals this day. * * * * * I sent home some recruiting officers, but they got scarcely a man, and report that there are none to be had there. No public spirit prevails. * * * Newport, I believe, from the best intelligence I can get, is determined to observe a strict neutrality this winter, and in the spring join the strongest party. I feel for the honor of the colony, which I think in a fair way, from the conduct of the people at home, and the troops abroad, to receive a wound."

Poor Greene! He never talked about the way in which New Englanders excelled Southerners in war. On the contrary, his greatest affliction at that time seems to have arisen from the indignation with which that unwarlike Virginian, Washington, was prone to express himself when the subject of Yankee soldiering was introduced into the conferences. Let Greene explain himself:

"His excellency has not had time to make himself acquainted with the genius of this people. They are naturally as brave and spirited as the peasantry of any other country, but you cannot expect veterans of a raw militia from only a few month's service. The common people are exceedingly avaricious; the genius of the people is commercial from their long intercourse with trade. The sentiment of honor, the true characteristic of a soldier, has not yet got the better of interest. * * * The country round here set no bounds to their demands for wood and teaming. It has given his Excellency a great deal of uneasiness that they should take this opportunity to extort from the necessities of the army at such enormous prices."

Parker! "this is the way they stood shoulder to shoulder!" The 83,000 Massachusetts men in the "country round" Boston took "that opportunity to extort from the necessities" of a Southern general and a Southern army, that had come there to defend the city and the soil of Massacusetts. When one remembers all this, does it not make him sick with absolute loathing, to hear a despicable reptile, who would faint at the sight of a sword, and be of as much use in time of war as a baby, stand up and talk as Parker does about those to whom he ows his liberty to talk at all? Is it not enough to make one blush for his own species? O shame!

— Let us hear something more about the New England troops—including 87,000 Massachusetts men in buckram. Graydon, a Pennsylvanian, while speaking in his Memoirs of General Schuyler, a man sacrificed to the malignancy of Massachusetts, says:

"That he should have been displeasing to the Yankees, I am not at all surprised. He certainly was at no pains to conceal the extreme contempt he felt for a set of men who were both a disgrace to their stations and the cause in which they acted, &c." "The sordid spirit of gain was the vital principle of this greater part of the army. The only exception I recollect to have seen to these miserably constituted bands from New England, was the regiment of Glover, from Marblehead. There was an appearance of discipline in this corps; the officers seemed to have mixed with the world, and to understand what belonged to their stations.

"Whatever was the reason, New England was far behind the other provinces in the display of an ardent, unequivocal zeal for the cause.

Again speaking of the state of the army while it occupied the heights of Harlem after the surrender of New York:

"In so contemptible a light were the New England men regarded, that it was scarcely held possible to conceive a case which could be construed into a reprehensible disrespect of them. Thinking so highly as I now do, of the gentlemen of this country, the recollection is painful, but the fact must not be dissembled."

The reader need not be told that in the early years of the Revolutionary war, its business was transacted in the North; and it was the want of troops from New Englad, their presumption and exactions of pay, that prevented Washington from doing very much in the face of the enemy. If he had been dependent entirely on the country which he was fighting for, and if he had had no resources in the South, the affair would have been speedily ended. But during all the Northern war, we hear of Virginia, Maryland, Carolina, and Pennsylvania troops in the field at the North. When, however, the tide of battle rolled away to the South, where it was prosecuted with the bitterness of a personal feud, and where it was final-

ly decided in favor of liberty, we never hear of New England troops on a southern field. The truth is, so soon as the dangers and troubles of the contest were taken off their immediate shoulders, the Yankees snapt their fingers at those who had done it for them. Says Mr. Sparks, Vol. I. 359, "The Eastern States in particular, after the French troops had arrived in the country, and the theatre of war had been transferred by the enemy to the South, relapsed in a state of comparative inactivity and indifference." Only in one single instance do we hear of the Northern troops getting to the South of the Potomac. That was at the seige of Yorktown. Some Northern troops were gotten there, under the immediate agency of Washington. How?—We quote again from Sparks, Vol. I, 368: "The Soldiers," says he, describing the army under moving order for Virginia, "being mostly from the Eastern and Middle States, marched with reluctance southward, and showed strong symptoms of discontent when they passed through Philadelphia. This had been foreseen by General Washington, and he urged the superintendent of finance to advance them a month's pay in hard money!" Even at the seige of Yorktown, the army consisted of 5,000 French, 4,000 Virginia and Carolina militia, the storming parties were led by a Frenchman and a Carolinian,—Col. LAURENS, while there were only 7,000 troops of the continental line present from all the States! Where were the 67,000 Massachusetts men of pensioners then? There was no war in their country—why were they not here?

The truth is, this "great army with banners," never came up till there was a Pension Fund to be stormed—and then there was not a man missing. No more complaints of "ranks with one eighth their complement" then. But none can deny, no one has ever denied, the actual service of 660 South Carolina troops in the continental line. Yet that was not half or an eighth of Carolina's fighting troops. More blood was shed in the two Carolinas than in all the New England States. There raged the civil wars between whigs and tories; and this war was fought on the side of liberty, by South Carolina's own militia and partizan leaders, never numbered among the continentals at all, though they did a more bitter battle than any men ever did for country or for king.—Marion, Sumpter, Moultrie, Pickens, Shelby and Sevier—all that noble and brilliant band of knights and heroes, and patriots—men of the first order of genius and career—these were merely officers of South Carolina's State troops, and maintained independently of her continental quotas. The battle of King's Mountain, one of the bloodiest, best contested and most important, and decidedly most complete victories of the whole war, was fought entirely by the partizan, unenrolled militia of Virginia and the Carolinas, against some of the best troops, and really the best general, of the whole British army.

Parker says, that even in war, "the Northern man is superior to the Southern," yet it is a curious fact that from the breaking out of the Revolution down to this day, New England has produced but one single distinguished military man. That one was Greene, of Rhode Island. Greene was a good man, a brave man, and a great general; and he "blushed" for New England! Every other distinguished general, in the Revolution, in 1812, in the Mexican war, were men from the Southern States, with one or two exceptions, in favor of Pennsylvania. Washington was a Southern man, Morgan, Marion, &c.; Harrison was a Southern man; Winfield Scott, Zachary Taylor, Gaines, Jesup, these were Southern men, and Andrew Jackson was a Carolinian. Yet it is not for want of chances to military distinction, as in every war, from the Revolution down, New England men have always managed to get a disporportionate share at the good paying high military places, such as generalships and the like. Thus, in the Revolution, New England had eleven major-generals and *all* the remaining States, Middle and Southern, only eight. Two other major-generals were English and one French. Of the nine brigadiers created in 1775, New England also secured seven.

Although no New England soldiers could even then be gotten out of New England, a plenty of generals (not, however, for Fame's head-roll) were forthcoming for Southern pay and rank. "Most of the generals" says Greene, speaking of the Southern campaign, "belong to Northern Governments." It is also a curious fact, that whenever we read in history of any shameful disaster happening to an American army, if we come to track the general who commanded it to his home, we are sure to find him a Yankee. Hull, who surrendered at Detroit, and who was broke by Court Martial, was born and bred and lived in Massachusetts—aye, in Massachusetts, that "even in war excels" the South. St. Clair, whose army ran away from a parcel of Indians, and were slaughtered like sheep by them, came from a high Northern latitude. Benedict Arnold was a Connecticut man; so, by the way, we believe, was Aaron Burr in birth, though reared in New Jersey, another Yankee State. —These are the most celebrated names in New England's military history, and against them we can only set Washington, Jackson, Scott and Taylor. "Even in war they excel" us, alas!

—Perhaps the reader thinks by this time that we have already devoted sufficient attention to such a subject and such a libeller. Perhaps some may think that we are pandering to the contemptible, stupid, low-flung sectional sentiment to which Parker makes his appeal. And perhaps we are. But the truth is, this kind of low, bully talk, in which this Yankee preacher indulges, has become so common of late years in the North, and is so cowardly, so mean, so base, so hateful, and so entirely unsupported by facts, that we must expose it or die of indignation.

SENTENCED.—The two negroes previously mentioned as having been arrested for stealing cotton from Mr. BATTERSEY, were yesterday arraigned before the Mayor upon the charge, and convicted. They were sentenced to receive seventy-eight lashes each.

Washington Sentinel.

EDITED BY

WM. M. OVERTON, CH. MAURICE SMITH, AND BEVERLEY TUCKER.

CITY OF WASHINGTON.

JULY 1, 1854.

THE TREATMENT OF FACTIONISTS.

During the debate in the Senate on the Massachusetts petition praying the repeal of the fugitive slave law, Mr. Clay, of Alabama, made a few remarks, which are worthy of consideration. But before we refer to them more particularly, we will submit a few ideas of our own, which are germain to the subject.

It has always seemed to us that the abolition members of Congress gained strength and consideration from the courtesy and kindness of those who were opposed to them. The southern members especially have always, as far as we have been able to judge, been particularly anxious to show that they entertained no personal disregard towards those fanatics whose counsels, if successful, would desolate every southern home and rend the Union into fragments.

This course of conduct may be right, proper and judicious. To a certain limit it is unquestionably right, proper and judicious. But we believe that the limit has now been broken down and passed over. The time has come when forbearance ceases to be a virtue. The time has come when there is no further excuse for kindness. When the announcemnnt is made that the sanctity of an oath cannot curb and restrian abolition fanaticism, no patriot can, for a moment, even hesitate to denounce and execrate those who utter such a sentiment, or to drive them beyond the pale of decent association.

Thus far the friendly intercourse and apreciation between men who repudiate that sacred instrument, has misled the people. When men who are fresh from the use of the harshest language towards each other are seen in familiar and cordial intercourse, the public will at once believe that their harsh recriminations were mere Buncombe appeals to a weak-minded constituency. In truth, the whole thing is looked upon like the squabbles between advocates in a court of justice, where many harsh expressions are used for effect by men who take a most friendly dinner together after the adjournment of the court.

This will do well enough in the ordinary transactions of life; but when grave and vital questions effecting the whole country are involved, other ideas demand consideration. The representative man must look to the efficient exercise of his representative duties. He has no right to tamper with dangerous men or to sport with dangerous principles. It is his duty in the halls of legislation and out of the halls of legislation, to exert all the power of his character, influence, and position to crush and destroy the influence of mean and unprincipled men.

These ideas have been recalled to our mind by the following remarks made in the Senate by Hon. C. C. Clay, of Alabama:

Excuse me one moment. I am not in the habit of trespassing often on the Senate. Mr. President I could go on and show that there is intrinsic evidence in this report to sustain the original report of the reporter; and what is it? Why, sir, thanothwithstanding this qualified denial, the senator from South Carolina treated it as a positive denial of the senator from Massachusetts, that he would support the Constitution of the United States. Now, I ask, does any intelligent man believe, if the senator had qualified that denial in the manner in which it appears now, that the senator from South Carolina would still have maintained that he refused to obey his oath, that he had refused to sustain the Constitution? Does any one believe that the senator from Virginia [Mr. MASON] would have repeated the charge? Does any believe that the senator from Indiana [Mr. PETTIT] would also have repeated it? Certainly not. Then there is intrinsic evidence in the report itself that these words have been interpolated; that they were not uttered.

Now, Mr. President, I have a few more words to say which I utter with great diffidence, and with the profoundest deference to older senators on this floor. We have no means of preventing these violations of the dignity and proprieties of the Senate. There is no penal statue which can reach a man who only avows his willingness to commit crime. But, let me ask, suppose a private citizen, however wealthy and well-born, however highly cultivated his mind, however great his talents, or rich his acquirements, should openly avow a readiness to commit moral perjury; should day by day evince a disposition to instigate other men to crime, which, from want of personal courage he did not dare perpetrate himself; should daily encourage other men to violate the rights of his neighbors, to steal their property, to kidnap their slaves, and to refuse to return them; should daily assail the feelings of his neighbors by wanton, rude, and uncalled for assaults upon their characters, and, when rebuked for it in the harshest, most offensive, and opprobrious language, like the spaniel, should quietly submit or beg for quarter, but never repair the wrong or resent the insult—a sneaking, sinuous, snake-like poltroon, who would violate all the rights of associates or friends, and never make reparation or acknowledge his error; and who held himself irresponsible to all law, feeling the obligation neither of the divine law, nor of the law of the land, nor of the law of honor; I ask you, how would such a miscreant be treated? Why, if you could not reach him with the arm of the municipal law, if you could not send him to the penitentiary, you would *send him to Coventry*. You would exclude him from the pale of society; you would neither extend to him the courtesies that are shown gentlemen, nor permit him to offer such to you. You would make him feel that he was shunned like a leper, and loathed like a filthy reptile; and you would soon render him as impotent for evil as he was disinclined for good.

Such characters, though rare, may be found, and have been known. I can give, from memory, the general outlines of one portrayed by Mr. Dickins, in his novel, David Copperfield—that of Uriah Heap. Uriah was mean, yet affected honor; was malignant, yet feigned benevolence; presumptuous, yet pretended humility; instigated others to violence he dared not commit, yet assumed an air of meekness; suggested crimes and incited others to their commission, yet bore himself with studied amenity of manners, and choice expressions of benignity. We have such a character on this floor. I have suggested our means of rebuking, if we cannot silence him; of disabling, if we cannot disarm him. If we cannot check individual abuses, we may preserve the dignity of this body. If we cannot restrain or prevent this eternal warfare upon the feelings and rights of Southern gentlemen, we may rob the serpent of his fangs. We can paralyze his influence by placing him in that nadir of social degradation which he merits. I am surprised, I repeat, I am surprised, that honorable men, but especially southern men, should so far forget their rights, and those of their constituents, and their duties to them, as well as to themselves, as to lend any countenance to such a character as I have portrayed.

IF THE TITLE IS BAD, THE MONEY OUGHT TO BE REFUNDED.

Every man has his peculiar trouble, which is either real or imaginary. When the first is wanting, the last is substituted for it. Real troubles are manageable, but by a strange perversity, the man who for want of a real trouble, makes an ideal trouble, refuses to imagine a remedy for it. As with individuals, so it is with nations. In the United States, where God, in his goodness, has not only given us the best of governments and freedom of religion, but has scattered around us, with prodigal munificence, all that can conduce to contentment and happiness—here even, we have a trouble, an harassing and a peculiar trouble. We are not oppressed, for each man has a voice in the counsels of the nation. We are not suffering for food, for we are in a land "flowing with milk and honey." We are not in a climate that breeds disease and pestilence. Ours is, perhaps, the best climate that God has vouchsafed to any country. Yet we have a great trouble. It attends us throughout the day, and haunts us throughout the night. At last, however, it is naught but an imaginary trouble. The curse of Ham, that God never designed for us is sought to be brought upon us. The servitude of the descendants of Ham was foretold. The prediction has been fulfilled, and wicked men, who love wickedness for its own sake, are endeavoring to transfer the curse from the descendants of Ham to the descendants of the founders and fathers of the republic.

More than once we have demonstrated to those wicked men—those fanatical abolitionists and miserable enemies of their country, that those who hold slaves now, are not to blame for the institution of slavery. Their own fathers, in conjunction with adventurers and speculators from England, introduced slaves into this country. They bought or captured African savages, and brought them to these colonies to sell. They instituted the traffic that their descendants now affect so much to abhor, and left to those descendants the wealth that resulted from that traffic. They love the prize—they revel in the booty, but they pretend to be disgusted with the manner in which it was obtained. Like the son of Noah, these degenerate children have uncovered their fathers' nakedness, and exposed them to shame and reproach. If that child was cruelly cursed, should these escape punishment?

Their fathers caught wild, wretched, oppressed, unclad Africans. They brought them to us who clothed them, fed them, reclaimed them from barbarism, and made useful servants of them. Their sons inherited the money for which some of those slaves were sold, and became the owners of such as were unsold. Instead of manumitting, they sold them. They have now in their pockets what they delight to call the price of blood. They sold them as they sell horses, cows, sheep, or hogs. They use the money as they would use money obtained by other means; but after that purchase money has been paid, and the property taken by the new and honest owner, they rail against that owner as a bad and a heartless man. They curse him with bitterness, and seek to deprive him of the property for which they have been paid. They call such infamous dishonesty—such wretched meanness, by the engaging names of religion and philanthropy. Such is abolitionism.

It is not to be wondered at that the honest men of the non-slaveholding States look with contempt upon such miserable creatures. Nor is it to be wondered at that these creatures have sworn an oath of deadly hostility against them. The man who sells a spavined or a blind horse for a high price, and then laughs at the fraud, is honest compared with those creatures who sell slaves, pocket the money, and then question the title of the purchaser.

We have taken occasion more than once to show that the abolitionists care nothing for negroes. The latest testimony on this point is that of the recent fugitive Burns, who said that all but fugitive slaves were permitted to suffer and starve without any offers of relief. Could Theodore Parker, Wendell Phillips, even Fred Douglas himself, (and negroes make, next to abolitionists, the cruellest masters,) or the immaculate Mr. Sumner himself, inherit a hundred slaves, there is no earthly doubt that each and every one of them would sell those slaves and pocket the money. They might refuse one, for very shame, but more than one would appeal with irresistible power, not to their philanthropy, but to their cupidity.

But one thing is strange, passing strange. The negroes of Africa lay for ages buried in barbarism, in servitude, and in misery, and the world cared nothing for them. Some of them, much to their relief, were brought to this country, as to other countries, and made slaves of. Their condition was vastly improved. They were christianized, civilized, fed on good food, and clothed in good garments. In process of time these colonies became independent and established a new and a free government. Nobody thought of abolishing slavery, nobody thought of giving to the negroes equal privileges with the whites, or indeed any political privileges whatever. The generation that made the Constitution has died out. We have grown from three, to between twenty-five and thirty millions of people. There are not more than 3,204,321 slaves, who are no more slaves now than they were when the Constitution was formed, but who, on the contrary, are far better off, because they have changed bad for good masters, and yet a great cry is raised that this government must be destroyed because of those slaves!

What virtue, what sense, what policy, what reason is there in that cry? Are the few who were made property by the fathers of the present abolitionists, to be made by those abolitionists the controlling power in the State? They had as well get up a revolution on account of the horses, the cattle, the wooden nutmegs, or the ready-made clothing that they have sold, as in account of the slaves they have sold. With the same justice they can abolish the tenure by which horses, or oxen are held, as that by which their former slaves are held.

Again, are the savages who were brought here from Africa, and have been humanized, to be made, by the reckless abolitionists, the cause of ruining the peace and detroying the integrity of the country. Are the negroes to rule over the white race, and will fanatics, and demagogues, and bad men labor to Africanize America and make the blacks equal with the whites? The subject is disgusting. We will say no more, except to express our approbation of the following well conceived and well expressed paragraph from a very sensible article in the New York *Day Book*, of the 29th inst. The *Day Book* says:

"We should like to ask Senator Sumner one question: Suppose that it could be proven that some one of your ancestors realized ten thousand dollars profit in the slave trade; that he invested that amount in real estate in Boston, and that that real estate was now sold for two hundred thousand dollars, and your portion of it amounted to fifty thousand dollars, would you hold on to the money, or would you give it to some charitable institution, or spend it in pur-

chasing and freeing southern slaves? There are millions of dollars now in Boston that are the direct proceeds of money received from the sale of slaves; to whom does this money rightfully belong, Mr. Sumner? Can you answer?

"The abolitionists never will be able to abolish slavery; many of them would not, if they could. They know that it is utterly impossible. They might as well undertake to make all the descendants of the old New England slave dealers give up the property that has come to them from their fathers because it is the proceeds of the sale of slaves. The Virginian has got the slaves and the New Englander the money. If it is wrong to keep the slaves, it is wrong to keep the money; and Mr. Sumner might as well start a crusade against New England for keeping that which it retains as against Virginia for keeping that which it has. If New England will take back the negroes and give Virginia back the money, let her say the word and Boston will be filled with free negroes before Saturday night. Come, gentlemen, of New England, give up your slave money—come, gentlemen of Virginia, give up your slaves. *Boston, why don't you* start?"

Our Boston Correspondence.

BOSTON, July 17, 1854.

The Schuyler Fraud—Low Standard of Commercial Morals, and Instances—Gardner G. Hubbard again Elected President of the Edgeworth Company—The Boston Music Hall—Action of the Directors and the ex-President and Family; the Latter's Defeat—Bad Ends Require Dishonest Means—Abuse of a Proxy—Supposed Suicide of Miss Ellen Dodge—No Indictments against Phillips and Parker.

The times are not altogether uneventful, notwithstanding the season of the year, but unpleasant topics preponderate just now. The Schuyler fraud, with its various aspects and consequences, takes the lead. Many innocent persons are suffering here, and some are ruined. I hear but one opinion as to where the responsibility should equitably rest, viz., upon the company. An opposite doctrine can hardly be justified, except on the assumption that the public have no right to rely upon the directors of corporations for the faithful conduct of their affairs.

It is an abuse of language to say that the public are *deeply excited* about this. Were this true it would show itself in some practical form. The morals of the public are very loose on mercantile delinquencies, and it is dishonest and mischievous to palliate or disguise this fact. Our community tolerates defaulters of all grades. The great deposed railroad king presides next week over a great meeting of the scholars and savants of the land. He is a distinguished presiding officer on such occasions, and cannot be dispensed with. He will leave his princely country seat in the morning, refresh himself at his elegant town mansion, and at the appointed hour, with bland and courteous demeanor, meet the great and good of the neighborhood, look his very creditors complacently in the face, and reflect, as he sees them smile at his ready wit and repartee, what an easy world it is to get along in if one has only impudence and influence.

The French say of the wealthy bankrupt in their inimitable way: "*Il entretient sa voiture pour éclabousser ses creéanciers*"—*He keeps his carriage to bespatter his creditors.* The late officers of the Vermont Central Railroad who were guilty of the recent overissue of stock, have not eloped,—there is no need, and they well know it. A notorious broker who sold this fraudulently issued stock, pledged to him as collateral, has just failed for the —— time (I cannot keep the run of his failures,) and is still a member of the Board of Brokers. He was not even censured in the report of the investigating committee! While these things are fresh and recent, the directors of the Edgeworth Land Company re-elect to their presidency Gardner G. Hubbard, the man who took the lead in this species of operation, in June 1852, and then, pending the investigation of the affair ordered by vote of the stockholders, voted himself and his co-operator in the transaction into the board again. The present board, who, at such a moment as this, dare to place this man again in the presidency, consists of the following persons: Joseph L. Moss, Benj. L. Allen, Jas. C. Dunn, Elisha S. Converse, Danl. D. Brodhead, Henry Hopkins, New York.

The recent attempt of the Curtii to make the Boston Music Hall Association the instrument of their personal spite and revenge, and its most mortifying failure, is still a subject of popular merriment and ridicule; and although it certainly has its ridiculous side, it seems to me it is treated much too lightly. It was an intolarable assumption of power and consequence, and when taken in connexion with the recent most atrocious charge of Judge B. R. Curtis to the Grand Jury, should be regarded as a gross and deliberate insult to the community in which they live. The course of the directors of the Music Hall has been highly dignified, and has met with universal approval.

The assault upon their freedom of action, as well as upon the financial interests of the stockholders, to gratify a personal pique, was grossly impertinent and dishonest, both in form and substance, and was fitly, though temperately, rebuked. The moderation of the directors in withholding from publication some facts of detail in the action of the Curtis party, must have astonished their angry assailants. One of these, however, ought to see the light, for it illustrates, among other things, this fact—that when men have an unworthy act to accomplish, they are generally unscrupulous about means; there is another moral to the transaction, viz: that when men lose their temper, they lose their prudence. The fact is as follows:

Last year, previous to the annual meeting of the stockholders, a rumor reached the directors that an attempt would be made at the said meeting to get an order passed to instruct the directors not to lease the hall again to Theodore Parker's society. Thereupon one of the directors wrote to a large stockholder, then and now resident in Europe, stating the fact and asking for his proxy to vote against such order should it be brought up. He received the proxy in time for the meeting—with a hearty approval of the determination of the board not to allow questions of politics or religion to influence their action in the affairs of the corporation. The language was very strong, manly and decided. But the enemy did not make his appearance! The lease to Mr. P.'s society was renewed by unanimous consent of the board, and the same Board re-elected. On the very day of the annual meeting of stockholders the present year, it became known, by a mere accident, to a majority of the Board, that an order similar to that contemplated last year would be offered at the meeting in the afternoon. Whereupon the gentleman who had last year received the proxy from Europe went to the agent of the person, who had then entrusted it to him, (the agent residing here,) and requested a power to vote on the same shares. The agent informed him that he had given them to the *nephew of the President!* The applicant then expressed his regret, and stated the substance of the instructions he had received last year from the owner of the stock, and that it was now to be used for the very object which he, the owner, desired to defeat; to which the only reply was that it *was given*, and that if the owner were here he would undoubtedly sanction its present use! At the meeting, the order was offered, (after the usual business, among which was the election of the *same Board of Directors,*) the gentleman who last year held the proxy of the absent stockholder moved to lay it on the table, commented with severity on the order, and on the use made of the absent stockholder's property, and read the passage from his letter of last year. He was followed by other gentlemen, who thought it a most unwarrantable proceeding; and one, a merchant of high standing in Boston, said, in effect, that as this was a very unusual proceeding, and could not have been anticipated by the stockholders generally, as even the directors did not learn of it until to-day, except those who had been secretly planning it, and that as the meeting was a very small one, owing to the treasurer's annual statement having been previously published and no business of importance expected to be done; he would move for an adjournment of one week, to inform the stockholders of this attempt to take $1,250 from their income to gratify a personal dislike of one family. But that family, who had been for a week machinating to pass this order and soliciting votes for the purpose, knew the danger of acquainting the stockholders at large with their purpose. They had already approached such as they thought they could indoctrinate with their prejudices, and in one eminent instance with signal failure of success.

Their plan was, to call for a stock vote; they "had reason to believe," as afterwards confessed by one of "the family" in his angry published letter of censure to a part of the directors, (artfully omitting his brother, who was *as* guilty, to say the least, of the alleged crime, as any other director;) they, I say, "had reason to believe" they held the control of the stock; so they, this virtuous family, who have since declared publicly that they believe the stockholders would uphold them in their action, *voted down the motion to adjourn for the very purpose of giving the stockholders a chance to vote on it.*

P. S.—I open my letter to record another Curtis failure. The grand jury have *not* found bills against Parker or Phillips!

Burton Traveller
July 24.

BRIMSTONE CORNER.—This is the very appropriate title of the corner of a Boston street, on which the church of Theodore Parker is situated.

A friend informs us of an incident connected with this same abolition cathedral, which strictly illustrates abolition consistency. An individual who had attended the church, but found the ultraism bearing altogether too strong for his own capacities of endurance, offered his pew for sale, but was for a long time unable to find a purchaser. He at length hit upon the curious expedient of a sham sale of the pew to a negro, enjoining upon him to occupy the pew, with his wife and children, every Sunday till further orders.

The pew was in a most conspicuous and eligible situation, and when, on the succeeding Sunday, the son of Africa and his wife took possession, they were the "observed of all observers." It was not many minutes before the occupants of neighboring pews vacated their places; and the looks of indignation and disgust they cast upon the intruders, exhibited the true character of their abolition philanthropy.

The next time the negro attended church, he found the pew door locked, but he lifted his affectionate spouse and sable cherubs over the inclosure, then followed himself, listening with great edification to the abolition theories from the pulpit; in such strange contrast with the practice of the people.

The third attempt of the negro to attend service was successfully defeated by locking the church door upon him; and the upshot of the matter was that the pew owner's trick was entirely successful, and the abolitionists gave him three prices for his pew, in order to prevent the abolition theory from being practically illustrated. This is but an example out of a thousand, of the insincerity and inconsistency of abolitionism.—*Phil. Ledger.*

Commonwealth.

Boston, Tuesday, September 19, 1854.

MORNING EDITION.

Gov. Washburn and the Burns Case.

We would suggest to some of our cotemporaries, who have the means, the propriety and necessity of placing all the acts of Gov. Washburn, in relation to the Burns business, in a clear light before the people. Many have an idea that either by an official act, or by his presence and approbation, he gave "aid and comfort" to Mayor Smith, and other more immediate actors, in the disgraceful scene, when the business of Boston was suspended, the militia turned out, and the streets of Boston blockaded, to aid in sending one poor fugitive back to slavery.—*Haverhill Gazette.*

This invitation of the Haverhill *Gazette* ought not to stand without notice. It is quite true that many have the idea that Gov. Washburn gave aid and comfort to Mayor Smith, and the other actors in that "scene," which the Haverhill *Gazette* justly calls "*disgraceful,*" and it is equally and very unhappily true that the people who entertain that "idea" are not mistaken.

Governor Washburn was in the city of Boston during some of the days while Anthony Burns lay in the court house of the county of Suffolk, which was unlawfully turned into a slave-jail, while a portion of the militia of the Commonwealth were acting substantially as the body guard of the man-hunters, and while the process of the Commonwealth, to which every person on its soil is by law entitled, was defied and spurned by the Marshal of the United States, in whose service, for all practical purposes, that same militia were engaged, and by whom, we understand, they were paid. Gov. Washburn was entreated to interpose, and to see that the laws of Massachusetts were executed by his own inferior executive officers; to withdraw the aid of Massachusetts from the support she was then actually and in the most powerful way giving to the slave hunt; and to exert all his powers as the supreme executive magistrate of the Commonwealth and commander-in-chief of the militia, to protect the people and maintain the laws.

Governor Washburn was in Boston on the day—the very day—when Burns was dragged through the streets of the city, a sacrifice to slavery; heard the ribald songs which arose from some of the squads of the soldiery into whose power Mayor Smith committed the city, saw the unlawful and shameful acts of which the *Haverhill Gazette* so well complains, was repeatedly urged to use his constitutional powers to save the Commonwealth from infamy, and prevent the triumph of violence over the peaceful institutions of the law. *But Governor Washburn did not interfere, did nothing;* and thus, he *did* by his "*presence,*" and therefore by his implied "*approbation,*" effectually do what the Haverhill *Gazette* condems,—"*he gave aid and comfort*" to those who more immediately and openly perpetrated the wrong, permitted the "*tool*" of slave hunters to accomplish his work, and voluntarily, for the time, as the most efficient "aid" he could render in the work — became "*a cypher.*" He did more: At some of the subsequent festive meetings at which, in mirth and hilarity, the Mayor and the military and their associates in the slave-hunt, came together to congratulate each other, Governor Washburn appeared among them, and joined in the common laudation of the citizen soldiery, of their prompt obedience to the order which called them out; talked of the necessity in our government of these military organizations; for the proof of which necessity he referred, in direct terms, to the incidents of that very week; referred to the fact that the Mayor had called for the troops; and remarked that the call had been responded to *with a spirit and patriotism just as the public has a right to expect.* He took especial pains to deny his having any sympathy with those whom he alleged had been "exciting and inflaming the public to resistance." But, concerning neither Mayor, nor Military, had he one word to say—unless of commendation and approval. And that, too, speaking, officially, as Governor and as commander-in-chief, from his own actual observation and notice of the events of which he spoke, and with the whole scene of Anthony Burns' enslavement, and of our city's degradation, in all their shameful *details,* fresh in his mind.

Now, for a moment, let us look to see what were the powers of Governor Washburn, which, in the hands of a governor and commander-in-chief determined to exert them, would have been efficient to prevent the success of Mayor Smith's attempt at achieving immortal infamy, and would, at least, have prevented the most conspicuous and alarming piece of usurpation ever perpetrated in our vicinity, within the memory of the present generation. To say nothing of the influence the Governor might have exerted over the Sheriff and his deputies, and in putting both them and the military arm, as a part of the *posse comitatus*, into proper relation with each other, so that, the State militia should not be found fighting against the State officers, we will simply consider the powers vested in the Governor,as commander-in-chief, by the use of which he could have prevented the outrages which were perpetrated under the orders of Mayor Smith and Gen. Edmands.

By the 7th Art. of the 2nd Chapter of the Constitution, the Governor is made commander-in-chief of the military forces of the State, with full power to "*govern*" them, to "*lead and conduct them,*" under all the circumstances, and in all the cases in which the military power may be put in motion; and the article concludes with a sweeping clause, "that the Governor be entrusted with all these and other powers, incident to the offices of captain-general and commander-in-chief," with the only restriction that they shall be used agreeably to the constitution and the laws.

Now the Mayor, having called out the militia companies,—(which he ought not, in deference to the Governor, ever to do, save in the absence of the Governor, he being, under the title of commander-in-chief, the officer first designated by law to perform such a duty)—the whole force and effect of his precept, calling them out, was exhausted, the moment the militia appeared according to the precept. When arrived at their post, they are, in the language of the law, "*to aid the civil authority in suppressing such violence* [i.e. the violence referred to by the precept] *and supporting the laws.*"

They are not to aid the civil authority, nor anybody, in breaking the laws, but in supporting them, and the Governor as at once the chief civil and the chief military officer of the Commonwealth, if he had chosen to appear on the scene of parade, might have taken them under his own immediate command; and in the words of the constitution, in fact, *led, conducted* and *governed* them, and using his appropriate powers, "*incident to the offices of Captain-General and Commander-in-Chief,*" prevented their actually violating the laws and the private rights of the people, might put them right and keep them right, and, as a civil officer, might have used their aid in whatsoever service of the law, whether in "suppressing violence" or "supporting the laws" the exigency of the case might have required. Had Gov. Washburn done this, the criticisms to which the *Gazette* alludes would never have been made. But he chose to permit the Mayor,—not in anywise being ignorant of the facts, because they transpired before his very eyes,—he chose to permit the Mayor and the General, and the "other more immediate actors in the disgraceful scene," to do their work, and in their own way.

That he did thus give "aid and comfort" to the tools of a slave hunt, the Haverhill *Gazette*, in common with ourselves, must regret. But, we have felt it incumbent upon us to accept the invitation of a contemporary and endeavor to "place all the acts of Governor Washburn, in relation to the Burns business, in a clear light before the people."

And now—after all—the point which we have only intimated, as yet, is that on which we the most strongly feel. The bold, bad misrule which delivered up our streets to martial law, was a fact so open and insolent, bearing on its face such an evident menace against free government itself; was so disgusting to a great body of citizens, and was so inconvenient to all, that we can contemplate the whole affair, as a thing which carries its cure along with its bane. That experiment will not easily be repeated—after the one experience, after the full discussion it has elicited, and especially after our next charter election.

But, *the neglect of the Governor to cause the process of personal replevin to be served,* and his permission of the employment of the State troops in such a way that they were among the most efficient instruments in preventing its service, was an injury, of which the immediate force was felt only by poor, uninfluential, humble, colored man, in whose fate the mass of people do not perceive that any personal interests of their own are involved. The liberties of a people never fall at a single blow. Not even the bloodiest and longest war by itself can break them down; when directly waged against them. Tyranny succeeds only after the sentiment of the people,the conscious dignity of the people, the love and zeal for liberty, and their faith in their own cause have been slowly and cautiously undermined.

This was one of those occurrences which tend to accustom the popular mind to contemplate the surrender of principles and the destruction of most sacred rights. Like moral ruin, insidiously beginning in a child, with seducing him into slight and venial faults, and working its cautious way along, until Satan has transformed him into one of his own; so do such offences against political society, beginning with injustice to one, while pretending to guard the peace of the many, portend the ruin of the State. Do not talk to us of good reasons why the evil should be permitted. Talk not of *this case* or of *this once.* The more specious the reason and the better the excuse; the more need that the Governor should have been a man not easily deceived by fallacies, and incapable of being cheated out of his allegiance to principles.

The matter lay in a nut-shell. The writ of personal replevin is a writ of right. It is the most fit and competent process for the purpose of testing the right of the citizen to his personal liberty when called in question. No *fugitive slave* act could take away the *freeman's* right to his freeman's trial. For, every man in Massachusetts is by all presumptions of law, *free* until he is proved to be a slave, and he is, therefore, until then, entitled to be treated as free.

The sheriff, or the coroner, ought to serve the writ. The marshal was bound to submit to its service. But, he declared he would not submit. And the officers of the State were feeble. The Governor would not back them up. The whole military power of the State was against them. The United States, from the President himself, down to the servants at the Custom House, were active in every nerve, putting every means into operation to strengthen the marshal and crush the citizen who was enveloped by its power. *Slavery* found no servant in its train at fault. No, not one.

But, *Freedom*, entitled to have found a champion in the person of the Governor of Massachusetts, who would have put himself at the head of his own militia, and strengthened the arms and the hearts of his ministerial officers, and maintained the right, was doomed to see the Mayor of Boston seconding the utmost exertions of the President of the United States, and the Governor of Massachusetts passively permitting Massachusetts herself to be used as the principal instrumentality in the service. Whether we contemplate the Judge of Probate, the Mayor, or the Governor, or the General of Brigade, we find no words rising in our mind as so fit to express the probable sentiments of them all, as those shouted out so frequently by the soldiers who helped them,

"Oh, carry me back to Old Virginny."

That they had no feeling to keep them here, must be plain, when all they did was to degrade our Commonwealth to the purposes of a Virginia slave-hunt.

A New Phase of the Burns Affair.—Under the head of "Facts to be Remembered about Mayor Smith," the *Herald* prints the following communication :—

You are aware, Mr. Editor, that many people assert, and, I have no doubt, believe, that if Mayor Smith had not called out the military, and placed the city under marshal law, on the occasion of the rendition of Anthony Burns, in June last, that "our streets would have flowed with blood." This is an entire mistake, and has its basis in ignorance of the real facts in the case.

You and your readers are aware that on the Saturday night prior to Burns' rendition an arrangement was made for his purchase. Before Hallett interfered in the matter, he and Col. Wright consulted with Mayor Smith, and got his (Smith's) pledge that the military should be called out to over-awe the populace and protect the United States government in the kidnapping scheme. As soon as the pledge was procured, Hallett assured Suttle that Burns *could be carried away*, and that he must not sell him. Suttle, who had already bargained for the sale of his "man property," *backed out*. Had Mayor Smith, instead of closing his doors upon his Aldermen, consulted with them as to the best course to be pursued, the military would not have been called out; Suttle, out of fear, and under the advice of Commissioner Loring and the counsel for Government, would have sold the fugitive; Boston and Massachusetts would have been saved from the disgraceful scene of the 2d of June last; and, above all, Anthony Burns would now have been a free man instead of a slave upon a Southern plantation. It is plain to see that blood would not have been shed, because there would not have been a rendition.

The people of Boston should remember another important fact, that Mayor Smith has always said that the military and extra police were called out on the occasion referred to, *to protect the peace of Boston*. When before, in the whole history of this metropolis, did the United States government ever pay to our military and police the sum of *fourteen thousand dollars* to protect *our* peace, *as a city?* The people of Boston must not be deceived. Take the real facts in the case and stand by them. Remember that the agents of the present national administration in this city have declared that Boston shall be humbled by endorsing the rendition of Anthony Burns, and to do this Smith must be re-elected Mayor. *Hallett has so declared*, and the question is—"Shall his declaration be verified? Shall the whole of Massachusetts and New England be disgraced? Let us hope not.

As soon as the result of the election for Mayor was known, some two or three hundred people gathered in front of the City Hall, and gave several cheers for the Mayor elect. Mayor Smith appeared upon the balcony in response to the demonstration, and was received with cheers. He addressed the assembly as follows, interrupted only by applause and pertinent remarks:

Fellow Citizens:—I thank you for these congratulations. They are evidence that you have approved of my past conduct; and I assure you that so long as I have the honor to represent you in this building I shall never swerve from the discharge of what I consider the strict line of my duty. I think all will admit that none of my predecessors ever had a more stormy time or more difficult contingencies to encounter than I have. But under all circumstances, fellow citizens, I have had an eye to the law; and whatever the law may be, if I am called upon to administer it, as an instrumentality in your hands, I shall maintain that law at all hazards. It is said that I unconstitutionally called out the militia; but what did I call them out for? It was to save your lives and protect your property, and I will do it every day in the week if it is necessary. But God forbid that there should ever be an occasion for it again. My sympathies are as strong and profound as yours, and I do assure you that there can be no oppression of the people or of any individual for whom I should not feel the deepest and warmest sympathy. But when duty says one thing and law another, I shall not let my sympathies stand in the way of my duty as a magistrate. Now I suppose by these raised voices that you have elected me for another year. [A voice, "Yes, by more than 1800 majority."] If you have placed around me men who will do all they can to administer the laws and cooperate with me for the welfare of Boston and for the protection and developement of its institutions, we will accomplish these objects. Now I am necessarily obliged to return back, for it is an hour of business. Again I thank you for the high honor with which you have complimented me.

[From the Boston Post, Dec. 16.]

Paying off the Soldiers.—The payment of the soldiers engaged in the excitement of June last commenced on Wednesday and continued yesterday. The payments were made by the mayor and alderman Dunham, and we learn that much feeling was evinced by the major general, and other officers high in command, at the refusal of the government to pay the troops through their mediumship. The former signed the receipt for his own pay and that of his staff under a protest against the manner of proceeding.

The Military Power in time of Peace.—As we have elected a new administration for the charge of the city, the time is a fit one for some study of the rights, which, by the election, the officers chosen have gained over our lives and property.

The Mayor has laid down, in his speech to his supporters, with a good deal of care apparently, the principle which is to guide them, as follows;—"When duty says one thing and law another, I shall not let my sympathies stand in the way of my duty as a magistrate."

This statement may be very well for those who understand it. We do not. We have the impression however that it is worth study, as embodying the principle under which the troops were paraded and commanded here last spring. It was very clear, at the time, that this was not done in conformity with law. It was not under any principle laid down in the Bill of Rights or the Statute Books. It seems the more probable, therefore, that in the new

order there is some secret principle of government, which gives mayors the power to put generals, colonels and regiments, under the command and pay of United States marshals; and that this principle is dimly shadowed out, in the statement that duty was on one side, and law on the other.

We have not been without hopes that while different Grand Juries were blowing into a flame one and another of the embers of that sad week in May, it might come within the province of some of them to inquire respecting the authority under which the troops were then mustered and paraded. No such inquiry is as yet public, however, and it may have been conducted only in the councils of that other tribunal, to which our civil officers swear allegiance before they take the oath of office as mayors or aldermen. If it were conducted there, we may presume that the decision was that while the law said one thing, the Mayor's duty said another.

It is worth recollection by the public, however, that the city of Boston owes all that it is, and all that it enjoys to the very principle of law, which (last spring trampled upon,) compels the constant subordination of the military to the civil authority. When in 1768, the English government, by way of intimidating the town of Boston, ordered three regiments into the town, that order was at once robbed of its danger to the people, from the fact, equally known to people and troops, that they could not act but by order of a magistrate. It was October, and they had no barracks in town. The Governor summoned the justices to provide them. The justices refused. The officers dared not provide barracks because they knew, that at English law they should be cashiered; that the civil authority must act, and not they. When, at great expense to the Crown this difficulty was got over, and houses hired as if by a private citizen by the commander, it proved at once that the troops had nothing to do. "*Every one knew that they could not be employed except on a requisition from a civil officer.*" These are Mr. Bancroft's words. There was not a magistrate in the colony that saw any reason for their being there, and they were as powerless, therefore, as if they had been in England. Hutchinson, the tory Governor, knew this; the English ministry knew it. It was not the want of troops which weakened them. It was the want of magistrates to give the orders to troops. It never occurred to *them* that they could, by a proclamation, elevate a military commander above the law even for a day. They did not know that duty could command one thing, and law another.

On the other hand, the patriot leaders understood this fundamental law of constitutional liberty as well as the tory ministry. And when it came to be their turn to order out troops, they obeyed it. That was then the fashion in Boston. When, after the Boston massacre, the English officers had promised to remove the troops to the castle, the town ordered out a body of military as a watch until they did so. This was the most humiliating part of that transaction to the English troops, that they should be watched thus by another army. The Boston colonel of that day, however, understood his place. And while his troops were under arms, the justices of the peace attended in succession every night, to secure the presence of a proper civil officer in case of resort to violent measures. Mr. Hutchinson himself understood constitutional law as well. When Captain Preston fired upon the mob, the night of the massacre, Hutchinson was at once sent for. His first words were, according to his own account, to ask Preston why he had fired "without the direction of a civil magistrate."

All these details appear in the new volume of Bancroft. They are seasonable just now, when behind the public government of the city there is a secret government which directs its line of conduct. We respectfully commend them to the attention of that grand council whose direction the Mayor is sworn to obey, as illustrations of the law which was once law in Boston, to which Boston owes the preservation of personal liberty in the very darkest times.

This council affects to be especially Ameri-[illegible]n. It may be well then that it should remember that this constant supervision of the military by the civil authorities is the especial principle which distinguishes at the foundation, our order of government from those of the continent of Europe. A Louis Napoleon, a Pius Ninth, or a Narvaez, like a J. V. C. [illegible]ith, may surrender to a military commander his own civil authority. An American citizen, acting under American law, cannot do this for an hour.

The Blood Money.

We do not yet hear how many of the soldiers (who, we were told in June, were "agonized" at the thought of sending a fellow man into slavery), have refused to receive the blood-money which is now disbursed at the City Hall,—(for what per cent. commission is not stated.) But we hope soon to hear of some exhibitions of spirit like that shown by the soldiers in Chicago lately, when two of the companies *refused* to turn out to aid the slave-catcher. A member of the Montgomery Guards writes to the Chicago *Tribune* as follows:

"The Montgomery Guards are done with catching niggers, and, sir, they will not lend themselves to such a mean business. They leave that business, sir, to your Native American companies—your pious Know Nothings. You may think, sir, the Irish have got very low, but they are not that low yet, and never intend to be. You have had a great deal to say about the Irish, but, sir, I hope you will not charge them with attempting or wishing to kidnap girls to make prostitutes of them, or stealing little babies from their mother's breasts.

The Montgomery Guards are always willing to bare their breasts to the foes of their adopted country, and sir, when the trial comes, you will find them ready, whether they get pay or not, to lead the van.

This is a very different spirit from that which actuated the Irish companies in Boston. A member of the Chicago Light Guard says:

"There was but one sentiment among the Light Guard, and that was, if a contest came on between the slave-hunters and the people, to see that the latter were not hurt. The whole thing was regarded as a farce, and was a source of amusement. I do assure you that if it were known that a single member of the company would be mean and infamous enough to fire upon the people, while attempting to defeat the machinations of the bad men who hound down men, and women and children, he would be kicked out of the Company, *sans ceremonie*."

A member of the National Guard says, with more force than elegance:

"Before we would help execute the fugitive slave law, we would see the slave catchers, and the Marshal and his understrappers, further down in h—l than a pigeon could fly in two weeks. [Tell Mr. Douglas and Mr. Pierce to put that in their pipes and smoke it, if they like it, and if they don't, do it anyhow.] I do not speak for the Captain, but I know I do the sentiments of a large part of my fellow-soldiers."

"Hussar" writes in the following indignant strain:—

"As a member of one of our city military companies, I thank you for the notice you made, yesterday, of the conduct of the National Guards, concerning the attempt to capture fugitive slaves. I have no patience with men who will so prostitute the high calling of a soldier, as to lend themselves to capturing persons fleeing from slavery, whether they be men, women or children. When I took the arms of a soldier, it was not to do such a dishonorable business as negro hunting—it was not that I might be made a bloodhound. And before I will submit to degradation, I will lay down my arms. Why, sir, you tell a Southern gentleman that he is a slave catcher, and you may expect to be horsewhipped, knocked down or shot. He will not submit to such an imputation on his character. Why, then should Northern men, who have no prejudices in favor of slavery, act so as to render themselves justly obnoxious to such imputations? And especially why should soldiers, who are always disgraced if they do not protect the weak, and shield, with their lives, when necessary, helpless women and children,—why should they, I say, be expected to join in slave catching or aiding and protecting slave-catchers? When they do this, as the Governor and Marshal would have them, I shall tear off my epaulettes, surrender my sword, and shake the dust from my feet—and so, too, will four-fifths of the members of the independent military companies of this city."

We hope to see the spirit of these men imitated by the men who are tendered the Blood Money by Mayor Smith

Evening Telegraph.

Boston, Monday, Dec. 18, 1854.

Serious Questions for Mayor Smith, the Boston Brigade and the General Court of Massachusetts.

On the subject of the fourteen thousand odd dollars of the money of the United States, of which Mr. Mayor Smith, is at this moment acting as the disbursing agent, we should like to make a few inquiries.

Mr. Mayor Smith has always alleged that he called out the militia simply in his character of Mayor to preserve the peace of the city; and not in the least to assist the cut-throats and ruffians who on that occasion were mustered into the service of the United States, in the rendition of Burns. The Mayor's tender and indignant heart would burst at the mere idea of such a thing. He a slave catcher! He admitted into the firm of Curtis, Sawin, Byrnes & Co! Heaven forbid! Both he and his organ the *Bee* are thrown almost into convulsions at the mere suggestion of it.

Such being the case, we should like to be informed how it happens that the United States disburse fourteen thousand dollars merely for keeping the peace of Boston? Is the city so poor that it cannot pay for keeping its own peace? Are the United States so rich and so generous as to pay claims against our city treasury? If so, why don't they pay up the debt due, it is now forty years, to the State of Massachusetts for her expenses incurred in the last war with England, for the military defence of Boston against the British? And why don't they discharge the claims for French spoliations which the United States assumed more than fifty years ago, and for want of which, even the mere principal, let alone the accumulated interest, so many of our aged citizens are now in or near the poor house?

Can it possibly be the fact that this calling out the militia nominally to preserve the peace of the city,—the only purpose for which the Mayor had any authority to call it out—was a mere subterfuge, a cunning falsehood suggested by District Attorney Hallett and the Mayor's other confidential advisers,—and that the militia was really called out to serve along with Marshall Freeman's battalion of pirates—the dregs of brothels and the lowest grog shops—as slave hunting tip-staves to the Marshal; and this with a special understanding that, to *prevent the necessity for any consultation with the other members of the city government*, the United States should pay the bill?

Such is the ugly complexion which this case at present assumes; and surely the officers and soldiers of the Boston Brigade owe it to themselves to institute a searching examination whether in addition to the illegal orders given them by the Mayor by which they were exposed to commit the crime of murder—which some of them indeed but barely escaped—the very call of them into service was not itself made under a false pretence, in order that after they were under arms they might be used as they were used, as mere slave catchers.

Nor are the officers and soldiers of the Boston Brigade nor even the citizens of Boston alone interested in this matter. It is a question for the people of Massachusetts; and we feel assured that the General Court, at its approaching session, will, as the Grand Inquest of the Commonwealth, make a thorough investigation into this matter.

This calling out the militia is one of the most stringent exercises of authority. Of the interference of United States officers to call it out at their own convenience, Massachusetts has always been exceedingly jealous. The very pretence under which the reimbursement of our expenses in the last war was so long and so pertinaciously refused, and still continues in part to be so, was the right which we had insisted upon of our militia to be regularly called out through the State officers, and when called out to be commanded by their own officers, and not by those of the United States.

It remains to be seen whether we shall patiently submit to this new dodge by which the militia are called out nominally to preserve the peace of Boston, but really to serve the slave-catching purposes of the United States; while the command of them instead of being left to their own officers or assumed at the critical moment by the Mayor in person, acting under the provisions of the statute, is in fact exercised from beginning to end by District Attorney Hallett and Marshall Freeman, the Mayor suffering himself to be converted into a mere piece of hollow tin, to serve as their speaking tube.

Knowing the composition of the legislature as we do, we feel very certain that the approaching session will not pass without a thorough investigation into this matter. And knowing the leaders of the American movement as we do, we feel certain that they will be the first to set this investigation on foot, for the very purpose, among other things, of showing the world that the Know Nothing Lodges, at least here in Massachusetts, are not to be turned either into rum holes or lurking places for slave catchers, as indeed they could hardly be the one without becoming the other.

While the United States authorities are straining every nerve to break down the right of free speech, we must have a sharp eye to their less open, but on that very account, more dangerous contrivances to get the control of our militia. If Mayor Smith's injudicious friends had not insisted on his re-election, the matter might have died and been forgotten with him; but since his re-election, and his threat to call out the militia every day if necessary, the matter cannot be suffered to pass without a thorough investigation.

Singular Slave Case

The Indianapolis *Journal* of the 13th inst., co tains a report of a trial in that place, under t seventh section of the act of 1850 for the renditi of fugitives from service. One of the chief w nesses for the prosecution was Cyrus Fillmore, brother of Millard Fillmore, ex-president of t United States.

In August, 1853, Benjamin Waterhouse stopp at the town of Onland, in Indiana, having in l wagon with him three colored persons. Cyı Fillmore was standing on the steps of a pub house in that town as Mr. Waterhouse drove t and saw the negroes, and questioned Mr. W. if was on the "underground railroad." He repli that he was, and inquired for Capt. Barry.

Waterhouse was indicted in March, 1854, for aiding the escape of slaves; but the indictment being defective in several important particulars, it was quashed. The chief charges were, that the negroes were not known to have been slaves; and if slaves, it was not known who their owner was. The Marshal was determined to make an example of Mr. Waterhouse, and Cyrus Fillmore was engaged by [illegible] of Loxington, Ky., the son of the alleged owner of the men, and try to discover the negroes and ascertain from them evidence against Waterhouse, &c.

Fillmore says: "I told him of Clark, who was also an abolitionist, and he finally drove up there; Thos. Clark came out when they drove up, but can't say I saw them get out; saw them no more after they drove to Clark's; I was within ten feet of the negroes as the wagon turned in the street; this was 20th to 25th August, 1853."

He goes on then to state how he went to Canada with Payne, and found, *as he supposed*, one of the same negroes that he had seen with Waterhouse. This was in June, 1854.

Cross-examined—had a conversation with defendant last May; saw the negroes in the wagon only; might have been twenty or thirty feet from them, but did not scrutinize them; noticed the one who was driving the most, and this was not Tom; as they turned the wagon they came, say ten feet, from me; think the negroes drove in town, and then over to Clark's; may be possible I am mistaken as to driving in town; became acquainted with defendant 17 years ago; deputy Marshal first wanted me to go to Canada, but I did not want to go, and the Marshal urged me to go; I have always been in the habit of working for pay; am confident the defendant used the term underground railroad

Re-examined—Defendant was going north, he thinks; depends on the road they came in town; might have been fifteen minutes they stopped; Tom was not driving; noticed the driver most; Marsh was to pay me; supposed I was to be paid in addition to expenses."

It appears from the testimony of Mr. Payne, that Robinson, the Marshal of Indiana, induced him to go to Canada, and take Fillmore with him, and that their expenses would be paid. The two then started for Canada, and Dr. Marsh, the Deputy Marshal, accompanied them as far as Detroit. Mr. Payne found his slave Tom at Windsor, Canada, sick; they recognized each other; Fillmore was with him. Tom was one of the negroes whom Mr. Fillmore *supposed* he saw at Orland, in the wagon with Mr. Waterhouse, in August previous.

Upon this evidence Waterhouse was again indicted and the recent trial lasted three days. George W. Julian and E. H. Brackett appeared for the defense, and R. W. Thompson for the prosecution.

The report in the *Journal* says that Mr. Thompson spoke over three hours, most of his speech "being a regular old-fashioned diatribe on the Union." The Court pursued the same line of *argument*, and was at the pains to tell the jury "that the Constitution could never have been formed unless it should contain the clause in relation to fugitives." He also informed the jury that a slave when found in Indiana (where the law presumes every man to be free) is, nevertheless, *prima facie* a slave, and it lies with the party denying it to controvert that presumption. These are a few of the points made by the Court in explaining the law and the evidence to the jury, who were strongly invoked to bring in a verdict of guilty.

The jury, after being out several hours, returned a verdict that Mr. Waterhouse pay a fine of fifty dollars, and be imprisoned in the court-room one hour, and that the Government pay the costs. This is all they would do.

The *Cincinnati Gazette*, from which we gather these facts, says:—

"We have been informed, the fact does not appear in the report of the trial in the *Journal*, that the jury refused to impose the fine of $50, unless the Court would first agree to immediately remit it, and that the fine was so remitted.

Such is the result of the first case tried in Indiana, under the 7th section of the Fugitive Law The case affords much material upon which to seriously ponder. It is, we believe, a new feature in our criminal jurisprudence, for the Government to pay the owner of lost property for his time and expense in hunting it up, and also to furnish men at the public expense to aid him in the search."

Mr. Cyrus Fillmore must have a very low estimate of the duty which he, as the brother of the ex-President of the United States, owes to the public or private character of our chief magistrates, when he, for the paltry pittance of "three dollars, and expenses paid," would consent to become a mere slave-hunter. There is not a gentleman in the whole South, if asked to do it, but would indignantly scorn the connection. In our life's experience we have known many mean Northern dough-faces; but, all things considered, they were brave and honorable men in comparison with the Indiana Fillmore."

THE WIDOW OF BATCHELDER.—A correspondent says:—"Some reminiscences are painful, yet profitable. 'The Burns affair' we do not like to recall yet it may quicken conscience to duty, and the heart to sincere sympathy. The widow Batchelder of this city, was assured of wide spread sympathy throughout the South, as well as from government. The fact is, that she has received from the South only three tokens of sympathy and aid. The citizens of Jacksonville, East Florida, contributed one hundred dollars. The citizens of Savannah, and persons connected with the office of *The Daily Morning News*, in that city, sent one hundred and thirty-three dollars and eighty-nine cents. One citizen of Fayetteville, N. C., submitted twenty dollars. Total $253 89. Of government, Mrs. Batchelder has not received one cent; not even her husband's wages for services rendered on the fatal night. Now, if this is Southern sympathy and government pay, let it be understood.—*Bunker Hill Aurora.*

THE CASE OF ANTHONY BURNS.—We have information which is authentic, that this poor victim of a treacherous master and cowardly Mayor, was sold by the miserable Suttle to a North Carolina negro trader (after $1400 had been tendered both here and in Virginia, and after he had promised to let Rev. Mr. Grimes have him,) for the sum of $700, with a condition in the bond that he should never be sold to go North. And that is the fate of this poor victim!

Under the city head will be found a statement of the amount of money paid out to each of our city companies by J. V. C. Smith, Esq., the lately appointed blood-money disbursing agent of the United States for this district.

What appropriation the respective companies will make of it remains to be seen. To accept and distribute it as *pay* would cover its recipients with utter disgrace. We trust that the companies generally will find some appropriation for it such as will free them from the charge of being *hired* slave-catchers, on a par in that respect with Marshal Freeman's cutlass cohort.

CITY AND SUBURBAN.

THE PAY OF THE BOSTON MILITARY FOR THEIR AID IN THE RENDITION OF ANTHONY BURNS.—We write with an "iron pen" for the benefit of some future historian, that in the year of our Lord eighteen hundred and fifty-four, in the city of Boston, there was received for their aid in consigning to the bondage of American chattel slavery one ANTHONY BURNS,—by the grace of God and his own efforts a *freeman*,—by the independent volunteer militia of said city, the following sums:—

National Lancers, Capt. Wilmarth,	$ 820 00
Boston Light Dragoons, Capt. Wright,	1128 00
Fifth Regiment of Artillery, by Col. Cowdin, for himself, staff and regiment,	3946 00
Boston Light Infantry, Capt. Rogers,	460 00
New England Guards, Capt. Henshaw,	432 00
Pulaski Guards, Capt. Wright,	828 00
Boston Light Guard, Capt. Follett,	500 00
Boston City Guard, Capt. French, (of which $190 was paid by order to George Young, for "refreshments.")	488 00
Boston Independent Fusileers, Capt. Cooley,	820 00
Washington Light Infantry, Capt. Upton,	536 00
Mechanic Infantry, Capt. Adams,	428 00
National Guard, Lieut. Harlow commanding,	416 00
Union Guard, Capt. Brown,	476 00
Sarsfield Guard, Capt. Hogan,	308 00
Boston Independent Cadets, Capt. Amory,	1,136 00
Boston Light Artillery, Capt. Cobb,	168 00
Major General Edmands and staff,	715 00
Major Pierce and staff, of the First Battalion Light Dragoons,	146 00
Col. Holbrook and staff, of the First Regiment of Light Infantry,	26 00
Brigadier General Andrews and staff, of the First Brigade,	107 50
Major Burbank and staff, of the Third Battalion of Light Infantry,	76 00
William Read, hardware and sporting apparatus dealer, for ammunition,	155 28
Total,	$13,115 78

The purchaser of Anthony Burns is David McDaniel of Nash County, North Carolina, a whilom acquaintance of mine. He is a horse-racer and gambler by profession, of Virginia origin, and recruited his fortune, about a dozen years ago, by marrying a young lady of the county in which he lives. Anthony, having many friends in Boston, cannot they raise a few hundred dollars for his restoration to his family and friends? His case is a hard one every way, and particularly that, after having tasted the sweets of Freedom, he should be thrust back into the gloom of Slavery. Who will move in the matter? OBSERVER.

Evening Telegraph.

Boston, Thursday, Dec. 28, 1854.

The Money for the Militia.

The *South Boston Gazette*, (edited, we believe, by a militia captain) is out with a long apology for the conduct of the Boston troops in aiding, under Mayor Smith's illegal orders, in the kidnapping of Burns, and then putting into their pockets the money paid them for their services on that occasion.

The *Gazette* pretends that the troops were as reluctant as anybody to serve in the capacity of kidnappers and slave catchers, but that they acted nder a stern sense of military duty.

When, at the commencement of the Revolutionary War, the eldest son of the Earl of Chatham was ordered to embark for America, he resigned his commission rather than engage in a military ervice, which his heart, his conscience and his sympathies condemned. Lord Effingham did the same thing. Rather than be employed to enslave their brethren, they abandoned the profession by which they expected to live, and threw up commissions for which they had paid large sums of money.

If any of our Boston militia officers had sacrificed his vanity to his conscience—if but one individual of them had made up his mind to forego his hat and feathers and other military fripperies, rather than engage in a base and cruel service, we should be more inclined to believe what the *Gazette* tells us, about the sympathetic inclinations of the troops.

It was, however, under the idea that the troops have some such "sympathetic inclinations," that we called upon them to give a manifestation thereof in their disposition of the money. As the case stands at present there is nothing to offset against the *acts* of the troops except the assurances of the South Boston *Gazette*. The acts of the troops are known everywhere, the assurances of the *Gazette* will hardly reach so far.

Against the doctrine set up by the *Gazette*, that the soldiers had nothing to do but to obey orders. —that the whole responsibility and all questions as to right and wrong. must remain with those who ordered them out—against that doctrine we must solemnly protest. It will answer for the meridian of St. Petersburg or Vienna, but not for that of Boston. In becoming militia-men, we do not cease to be citizens. We are militia-men because we are citizens. In becoming militia-men we do not part with our personal responsibility. Had Mayor Smith's illegal orders been obeyed,—had the command to fire, not been intercepted at the critical moment, the soldiers who obeyed that order would have found in it no protection against the consequences of that act. Had any body been killed, the law would have held *them* guilty of murder. As it is, having served as kidnappers and pocketed the pay for it—having given no sign of reluctance, or evidence of sympathy, they have no ground to complain should public opinion and the pen of history set them down as having volunteered for this disreputable service. Even of those who applauded the deed, the greater part will despise the doers. They must not expect to stand upon a higher level than public executioners, who, in most countries, however useful and even necessary their office may in some cases be, are still regarded with mingled abhorrence and contempt.

Evening Telegraph.

Boston, Wednesday, Feb. 7, 1855.

Topics of the Day.

The French Spoliation Bill has passed the Senate.

General Wilson, (says the Worcester *Spy*), will leave Boston by the Express train this afternoon, and will arrive in Worcester about 4 o'clock, on his way to Washington. We understand that his friends contemplate firing a salute in the vicinity of the Western depot, on the arrival of the train.

We are since informed by a gentleman from Natick, that Mr. Wilson will not leave until to-morrow.

We print an excellent Kanzas song, written by Lucy Larcom, of Beverly, for which she has received a prize of fifty dollars—a prize worthily bestowed. Miss Larcom is a writer of great merit, both in poetry and prose. Jewett & Co. will publish an American story written by her, in the course of the year.

Mr. Seward's vote was 17 in the New York Senate. This is just one more than half of that body. Gen. Wilson received just the necessary number in our State Senate.

On the first page may be found another article on the progress of the Temperance Course, and a report of Mr. Lowell's lecture on Pope. On the fourth, an interesting letter giving an account of Mr. Wise's movements in Virginia. The comments of the distinguished gentleman upon Lowell's anti-slavery hymn are particularly rich.

The Case of Edward G. Loring.

We have called the attention of the members of the Legislature to the subject of disconnecting the office of Judge of Probate from the office of Slave-Commissioner, by removing from office Edward G Loring, the present Judge for Suffolk county. We are sorry to perceive a seeming reluctance in the Legislature to attend to this very obvious duty, and we hope that the difficulty between the two branches as to the question—What Committee shall have charge of the subject, will be speedily settled. We do not regard this matter of the Committee as of much consequence. No Committee of the present Legislature, fairly constituted, (and none will be constituted unfairly,) can fail, after a fair examination of the subject, to come to the conclusion that Judge Loring's removal, by some process, is a neeessary step in vindication of the honor of the State.

We shall have other opportunities to speak on this subject. Just at present there is another aspect of Mr. Loring's case, which demands attention. At the last meeting of the Board of Overseers of Harvard College, the Corporation submitted the nomination of Mr. Loring to a Law-Lectureship in that institution. On Thursday of next week, this nomination will be acted upon by the Board of Overseers. It ought to be rejected without hesitation.

Last year, the Corporation came before the Overseers with a proposition to establish a new Professorship of Law, and to make Mr. Loring the Professor. The subject was referred to a committee, consisting of Messrs. Francis Bassett, Samuel Hoar, and Richard Fletcher, and they reported against the double proposition, which was then withdrawn by the Corporation, who fully under-

stood that they could not carry it. Now they come forward with the more ... proposition to make Mr. Loring a Lecturer. The proposition of last year shows that the design eventually is to make him a Professor, if possible, and members of the Board should vote upon the nomination for the Lectureship with the clear understanding that it is but a stepping stone to the superior station.

There are plenty of reasons why Mr. Loring should not be Professor, or Lecturer in Harvard College. The chief reason, with us and with a majority of the people is, undoubtedly his connection with the "rendition" of Anthony Burns. The Fugitive Slave Act is almost universally condemned, here in Masschusetts, as a wicked and inhuman statute. Even most of those who believe that it is "nominated in the bond" of the Constitution, shrink from the loathsome "duty" which it enjoins. The popular appreciation of the men who execute it, is seen in the way in which Mr. Deputy Marshal Butman has been driven out of Worcester and out of the State House. Men universally say, this feeling is right, as exhibited towards Butman. Yet why is it right towards him and not towards Edward G. Loring? Butman is the least guilty. He is less learned and more needy than Loring, and therefore has two excuses which Loring has has not.—His act was precisely the same as Loring's. If Loring executed the law of the State, and saved the Union, Butman helped him do it. If Loring's conscience forbade him to refuse the certificate of rendition, so did Butman's duty compel him to attend the slave back to Virginia. The people of Richmond saw no difference in their cases. They gave Butman a public dinner, and could have done no more for Loring, if he had been there. Now suppose, (what is not a supposable case,) that Gov. Gardner should nominate Butman to some executive office. Would there not be a universal demand upon the Council to reject the nomination? The duty of the Overseers of the College to reject Loring's nomination is just as clear, and far more imperative, inasmuch as it is proposed to place Loring in a position of the greatest responsibility—that of a teacher of young men in our ancient seat of learning.

We have spoken only of the popular estimation of Loring and of the demand upon the Overseers not to disregard this view of the subject. We shall not now speak of the actual character of Loring's act, or of the mode in which he performed it. We pass to some other considerations.

What good reason is there why Mr. Loring should be retained as Law-Lecturer? Is he an eminent lawyer? Is he of the class of men that Law Professors are made of? Does he belong to the same rank as Professor Parker and the late Professor Greenleaf? Nobody pretends it. Cannot far more able lecturers be obtained? Nobody doubts it. The sum of seventeen hundred dollars, which was paid to Mr. Loring last year, would secure far more valuable lectures from men of greater eminence. The Committee of the Overseers last year thought that there was no necessity for a permament professorship, with Mr. Loring as professor. The money can be better laid out. Why not obtain lectures from men really eminent in the law, and not obnoxious to the public? We have such men as Dexter, Fletcher, and Charles G. Loring. We know not that they would perform the duty; but there is no reason to suppose that they have been invited. If a man *must* be appointed who is a supporter of the Fugitive Slave Act, why, let Judge B. R. Curtis be employed, as Judge Story was. If the young students *must* have Kunderism and Lower Law, let it be ably administered by a master, like Judge Curtis, and not in weak doses such as Edward G. Loring must give.

On this matter of Judge Loring's lack of ability, we take it there is no difference of opinion. He may be popular with the students; but he has *never* been known as an able lawyer. When vacancies have occurred upon the Supreme Bench or the Bench of the Court of Common Pleas, have his claims ever been considered? Has he ever been thought of for any higher judicial position than that of Judge of Probate for this county? Ye for the sake of favoritism, if not for the worse motive of defying the public opinion of the State, able men are passed by and this third rate lawyer selected. No man can honestly say that the interests of the law school will suffer if Mr. Loring is compelled to suspend his teachings. During the last year he was paid 1700 dollars for lecturing, one thousand dollars salary as Judge of Probate, and perhaps 200 or 300 more for taking depositions. We say nothing of the ten dollars which he was entitled to receive for remanding Burns into slavery, for possibly, like Mr. Commissioner Curtis, he has so far shown a consciousness of the meanness of the act he committed as to refuse to receive his fee. He receives as large a salary as a Judge of the Supreme Court, and no man will pretend that he is of capacity to entitle him to any such compensation.

This argument as to the capacity of Judge Loring is of importance in a legal point of view, aside from all moral considerations. A teacher in the Law School ought to be a man of legal knowledge, as well as of good principles. We believe we are justified in saying that Judge Loring's decision in the Burns case is regarded by the ablest members of the bar of this State as wrong in point of law, as well as unjust when regarded from higher considerations of conscience and equity.

If the Overseers of the College ask for a precedent for the rejection of this nomination, we remind them of the rejection of Mr. Bowen for his anti-democratic teachings on the subject of the Hungarian revolution. And the case of Mr. Bowen has another lesson. In spite of his rejection as Professor of History, he was afterwards placed in the chair of Moral Philosophy. The purpose promoting him was not relinquished, but only a more favorable season sought out for the consummation of the plan. If Judge Loring is confirmed in the Lectureship, the Professorship will be pressed next year, and then there may be no remedy, but we may every year witness the disgraceful spectacle of a Professor of that Law which ought to have its seat in the bosom of God, stepping over to the Boston Court House, consorting here with vile slave catchers and viler Government officers, and wielding that cruel machinery which sends innocent men into perpetual bondage.

DAILY ADVERTISER.

BOSTON:

FRIDAY MORNING, FEB. 9, 1855.

For telegraphic and other late intelligence, see first page.

☞ No notice can be taken of anonymous communications.—We must know the names and addresses of our correspondents, as a guarantee of their good faith. We cannot undertake to return communications that are not used.

PETITIONS FOR THE REMOVAL OF JUDGE LORING.—We regretted to observe in the Evening Telegraph, two days since, a deliberate attempt at an argument in favor of the removal of Edward G. Loring from his office as Judge of Probate for this county, and in rebuke of the hesitancy which the legislature, to its credit, exhibited in referring petitions for the removal. We had not supposed that the idea of such a removal was seriously entertained by anybody pretending to consider public questions from an enlarged and statesman-like point of view. We were aware that several petitions for the removal had been presented in both houses of the legislature; but this fact in itself is without significance. There is no measure so extreme, or so unlikely to be carried, as not to be petitioned for. There have been petitions for the secession of Massachusetts from the Union; petitions to allow women to vote, and petitions for a great many other things which nobody expects the legislature to grant. Deference to the right of petition leads the legislature to receive these papers and refer them to committees, but such reception and reference have no implication that the legislature will act favorably upon them.

Our object in alluding to the subject today is not to adduce reasons why Judge Loring ought not to be removed, or even to reply to the Telegraph's attempted argument, but to call attention to the fact that the apathy with which the fact of the presentation of these petitions is regarded by the community generally, is by no means an indication of their willingness that the removal should be consummated. If the idea of removing Judge Loring really be seriously entertained by any members of the legislature, and should they succeed in carrying through the measure, under the impression that the public sentiment of the State would support them in the act, they would find that they had greatly mistaken the temper of the people of Massachusetts.

The removal of Judge Loring from his office would be a conspicuous instance of proscription for opinion's sake as disgraceful as any that has occurred in history. The Constitution declares that all judicial officers, including of course, the Judges of Probate, "shall hold their offices during good behavior." There is not the slightest pretence that Judge Loring has misbehaved in his office. On the contrary the whole community recognize him as a faithful and upright Judge, whose services are of the greatest value to the State. Even Theodore Parker, in his notorious "Lesson for the Day" in which he publicly charged Judge Loring with the death of Batchelder, bore witness to the excellence of his character.

"Judge Loring is a man (said he) whom I have respected and honored. His private life is mainly blameless, so far as I know. He has been I think, uniformly beloved. His character has entitled him to the esteem of his fellow citizens. I have known him somewhat. I never heard a mean word from him—many good words. He was once the law partner of Horace Mann, and learned humanity of a great teacher. I have respected him a great deal.—He is a *respectable* man—in the Boston sense of that word, and in a much higher sense; at least, I have thought so. He is a kind-hearted, charitable man; a good neighbor; a fast friend—when polities do not interfere; charitable with his purse; an excellent husband; a kind father; a good relative."

Now, [illegible]t be granted for the sake of argument that there is a strong sentiment on the part of a considerable portion of the people of Massachusetts against the discharge by any of her citizens of duties under the fugitive slave law, yet the sentiment of Massachusetts against proscription and persecution *for mere opinion's sake* is now, as it always has been, so strong, inherent and universal, that the removal of Judge Loring, while no misbehavior in his office could be alleged against him, would undoubtedly be condemned by a large majority of the people as an unconstitutional and improper exercise of power. Whoever thinks otherwise does not know the honesty and good sense—he does not even know the prejudices—of the people of Massachusetts.

This aversion to proscription for opinion's sake is in many instances strongest with those who hold the strongest anti-slavery sentiments. But when we add that a large portion, if not a large majority, of the people of Massachusetts are of opinion that no man can be a good citizen of Massachusetts who is not a good citizen of the United States, and that the duties of a good citizen require of public officers the faithful performance of the duties imposed upon them by the laws, however difficult or disagreeable, it becomes still more evident that the removal of Judge Loring on the ground of his action in the Burns case would never be justified by the people of the State.

We ought not to conclude this article without stating that those persons best informed with regard to what is likely to be done at the State House, do not expect that the removal will take place. If effected, it must be by the Governor, on the address of the two houses of the legislature. The address must pass in each house separately. It may well be doubted whether a measure which would so entirely

identify the "American" party with the red-hot free-soilers, and would deprive it of even the least claim to be regarded as a national party, could pass the State Senate, even if it could the House, where the anti-slavery element is stronger. We can hardly conceive that Gov. Gardner should countenance the measure.

The legislature may perhaps pass a law prohibiting for the future any judge of probate from acting as commissioner under the fugitive slave law of 1850. The State law of 1843, prohibited judges of courts of record and justices of the peace from granting certificates of rendition under the law of Congress of 1793. The probate court, we believe, is not regarded as a court of record; and an act to extend the provisions of the act of 1843 to this court, and to apply them also to the recent law of Congress, may perhaps be passed at the present session; but the other act of wrong is not likely to be perpetrated.

FEBRUARY 10, 1855.

JUDGE LORING'S REMONSTRANCE. — We publish in another column the remonstrance of Judge Loring to the legislature against the petitions for his removal. We commend it to the attention of our readers. It is respectful and dignified in its tone, and irrefutable in its reasoning. The facts which he states, that his appointment as Judge of Probate was subsequent to his appointment as U. S. Commissioner; that no law makes the offices incompatible; that the U. S. Act of 1850, *requires* the services of the commissioners under it; that that act has been declared a constitutional act by the Supreme Judicial Court of Massachusetts, which tribunal has enjoined its observance—appear to us to constitute an unbroken train of reasoning leading to the conclusion that the prayer of the petitioners is indeed a request for "an abuse of power for which the legislative history of Massachusetts furnishes no precedent."

HOUSE OF REPRESENTATIVES.

FRIDAY, Feb. 9.—The House was called to order at eleven o'clock. Prayer by the Chaplain. The Journal of yesterday was read.

PETITIONS AND REMONSTRANCES.

The following petitions and remonstrances were presente . and referred: of several persons in favor of a division of the County of Worcester; of Geo. P. Monson and others, for a bank at Gloucester; of Rockport Bank for remission of a fine; of several persons against the petition of the Eastern Railroad for a repeal of a law of 1852; of Edward Greeley Loring, Judge of Probate for Suffolk County, against various petitions and memorials for his removal from office; of several persons in aid of an independent railroad from Boston to Lowell, of a railroad from Lexington to North Chelmsford, of the removal of Judge Loring, &c., &c.

JUDGE LORING'S CASE.

Mr. WILDER, of Brookline presented a remonstrance of Judge Loring against the various petitions for his removal from office as Judge of Probate of Suffolk county, and moved that it be committed to the committee on Federal Relations, which has that subject under consideration, and that it be printed, Mr. JOHNSON of Lowell objected to the printing, as it was a long document and would cost considerable unnecessary expense. Messrs. SLACK and STONE of Boston were in favor of printing. Mr. CHAPIN of Worcester was opposed to printing, and thought it would be unfair to print it without the petitions for Judge Loring's removal were also printed. [The petitions are all alike, being nothing but a printed circular to which names, mostly of women, are pasted on in sheets.] The motion to refer and print prevailed.

The remonstrance will be found in full, in another column

JUDGE LORING'S REMONSTRANCE.

The following paper was yesterday presented in the House of Representatives. It was ordered to be printed.

To the Hon. the Senate and House of Representatives, in General Court assembled:

The remonstrance and protest of Edward G. Loring, Judge of Probate within and for the county of Suffolk, against the petitions of various persons for his removal from his office aforesaid:

Against the prayers of the Petitioners I respectfully ask leave to submit to your honorable bodies the following facts and considerations.

In the year 1841, while a counsellor of law, practising in the Courts of this Commonwealth, and of the United States, held within the same, I was, by the Hon. Joseph Story and the Hon. John Davis, then Justices of the Circuit Court of the United States for the first Circuit and District of Massachusetts, appointed to be a Commissioner of the Circuit Court in said District, "to take bail and affidavits" persuant to the acts of Congress, passed A.D. 1812, 1817.

In the year 1847, while still holding and exercising the office of Commissioner as aforesaid, I was appointed by his Excellency George N. Briggs, then Governor of this Commonwealth, by and with the advice of his council, Judge of Probate within and for the County of Suffolk.

I have ever since held the said offices. And from time immemorial it has been customary for Judges of Probate in this Commonwealth, to engage in and transact any business which is not incompatible with the faithful discharge of their Probate duties, and that incompatibility is now fixed and limited by the Revised Statutes, ch. 83,—and the office of Commissioner of the Circuit Court of the United States, from its creation in 1812, has been always held by those who were also, as Justices of the Peace, or otherwise, State magistrates.

By an act of Congress, passed A. D. 1793, in execution of the 4th article of the Constitution of the United States, jurisdiction in all cases of the extradition of fugitives from service or labor, had been vested "in any magistrate of a county, city or town corporate," and therefore in this Commonwealth, in any person holding a Commission as Justice of the Peace, irrespective of his fitness for the important duties under the act or of his official or moral character, or of any debasement of both, through which his official services might be prostituted to claimants who would pay for them, and who were left free to pay any sums their purposes might require: And under the act of 1793, respondents in the cases for which it provided, had no security against the chance of such a tribunal.

By an act of Congress passed A. D. 1850, chap. 60, while I held, and had long held, the office of Commissioner, the jurisdiction in question was transferred to Commissioners of the Circuit Courts of the United States. These officers were

counsellors at law, appointed by the Circuit Courts of the United States, in which they practised, for the performance of other and judicial duties, and therefore presumed to be experienced in the administration of justice; their official duties were formally and publicly performed, and on the responsibility of their official position and personal character. And this tribunal was substituted for that under the act of 1793. To remove this tribunal from corrupting influences, its fees were fixed, and limited to a compensation for the merely clerical labor performed.

In the year 1851 the act of Congress of 1850 was declared by the unanimous opinion of the Justices of the Supreme Judicial Court of the Commonwealth of Massachusetts, to be a constitutional law of the United States, passed by Congress in execution of the 4th article of the Constitution of the United States and as such the supreme law of Massachusetts (7 Cush. Rep. 285): And in exposition of the subject, after reference to the nature of the Constitution of the United States, as a compromise of mutual rights, creating mutual obligations and duties, it was declared (page 319):—

"In this spirit and with these views steadily in prospect it seems to be the duty of all Judges and Magistrates to expound and apply these provisions in the constitution and laws of the United States, and in this spirit it behoves all persons bound to obey the laws of the United States, to consider and regard them."

And this authoritative direction as to the duties of the magistrates and people of Massachusetts was given in direct reference, to the 4th article of the constitution of the United States—the U. S. act of 1850, and the laws of Massachusetts as they then were and have ever since been.

Under all these circumstances by an application, unexpectedly made to me in due form of law in May, 1854, and of which my first notice was the presentation of the complaint for the warrant, it became my painful duty as Commissioner as aforesaid, to perform the official act for which my removal from the office of Judge of Probate is now sought by the petitioners; the same being the extradition of Anthony Burns, claimed as a fugitive from service or labor under the U. S. act of 1850.

The duty of Commissioners of the Circuit Courts of the United States under the U. S. act of 1850, is imperative upon them; for by the terms of the act, they are not merely authorized but they are expressly "required to exercise and discharge all the powers and duties conferred by this act." An application made pursuant to law, to any one Commissioner, fixes that duty on him, and after such application he can neither decline it or evade it; for if he could legally do so, all others might, and then not only the Statute, but the Constitution of the United States would be violated, and the public faith, pledged to it, and the oaths taken to support it, would be broken. In this conviction, the Commissioners of the Circuit Court of the United States in this Commonwealth, refusing all pecuniary compensation, have performed their duties to the Constitution and the Laws.

Magistrates do not make the laws, and it is not for them to usurp or infringe upon that high power; therefore, if they are honest, they administer the laws as they are committed to them. On this depends the security of every thing the law protects; and that security will be lost, when magistrates shall shape their official action, by their own or the popular feeling, instead of "*standing laws.*"

When I was appointed Judge of Probate I was, by the authority of the people of Massachusetts, bound by an official oath to support the Constitution of the United States; this is to be done only by fulfilling the provisions of the Constitution, and of those laws of the United States which are constitutionally made to carry the Constitution into effect. And on the authority of the Supreme Judicial Court of Massachusetts, I confidently claim that in my action under the U. S. act of 1850, I exactly complied with the official oath imposed on me by the authority of the people of Massachusetts.

And I respectfully submit, that when, (while acting as a Commissioner,) I received my commission as Judge of Probate, no objection was made by the Executive of the Commonwealth or any other branch of the Government to my further discharge of the duties of a Commissioner; nor at the passage of the act of 1850, when the jurisdiction aforesaid was given to Commissioners of the Circuit Courts of the United States, nor at any time since was I notified, that the Government of Massachusetts, or either the Executive or Legislative branch thereof, regarded the two offices as incompatible, or were of opinion that the same qualities and experience which were employed for the rights and interests of our own citizens, should not be employed for the protection of all legal rights of alleged fugitives from service or labor under the U. S. act of 1850.

I make these latter remarks only for the purpose of bringing respectfully to the notice and clear apprehension of your Honorable bodies, the extreme injustice and want of equity that would be involved in the removal of a Judge from office, for the past discharge of other official duties, not by law made incompatible with his duties as Judge; against his exercise of which no official objection had ever been raised; and which were created and imposed on him by that law of the land which is the supreme law of Massachusetts.

And in answer to the prayers of the petitioners, I claim as facts;—that the extradition of fugitives from service or labor is within the provisions of the Constitution of the United States: that the U. S. Act of 1850 was and is the law of the land, and by the decision of the Supreme Judicial Court of the Commonwealth, obligatory on all its magistrates and people; that action under the said act was lawful and not prohibited by any State law to the Judicial officers of the State; and was in conformity with the official oath of all officers of the State to support the Constitution of the United States.

And I respectfully submit to your Honorable bodies that when the petitioners ask you to punish a judicial officer for an act not prohibited by any statute of Massachusetts but lawful under those statutes and imposed by that law of the land which is the law of Massachusetts—they ask of you an abuse of power for which the legislative history of Massachusetts furnishes no precedent.

All of which is respectfully submitted:

Boston, Feb. 9, 1855. EDWARD G. LORING.

A SLAVE-CATCHER ON HIS TRIAL.

When the other day we took occasion to discuss the Constitution and history of the two bodies that administer the affairs of Harvard College, namely, the Corporation, so called, and the Board of Overseers, we had no idea of being called upon so soon to direct public attention to a remarkable act of the Corporation—one in which not merely the friends of the College but the whole country have an interest—and the duty, in consequence of that extraordinary act, devolving upon the Overseers. It so happens, however, that the Corporation have seen fit to nominate for reappointment as a Lecturer, at the Law School attached to the College, that same Edward Greely Loring, who, somewhat less than a year ago, achieved for himself so unenviable a notoriety as a kidnapping United States Commissioner—or, to use the polite law-Latin term, *extraditor*—in the famous case of Anthony Burns; and it now remains for the Overseers to say, at their next meeting, about a fortnight hence, whether this is a nomination fit to be confirmed.

As the Corporation have chosen thus wantonly to outrage the moral sense of the public, it becomes proper to make some statements in relation to the position formerly occupied by that body and Mr. Edward G. Loring respectively, which may serve in part to explain their present relative position—that of the Corporation as nominators, and that of Mr. Loring as nominee. As Mr. Loring never had attained to any distinction in his profession, and as, through the favor of his numerous and influential family connections, he held already, at the time of his original appointment as Lecturer at the Law School, the responsible and important place of Judge of Probate for the County of Suffolk, a good many inquisitive people were induced to ask what possibly could have led the Corporation of the College to select him, of all men in the world as a Law Lecturer? And the conclusion pretty generally come to was, that the appointment was a mere family job. The Corporation being a self-perpetuating body, had become, it was said, a little, narrow, personal clique, who looked upon the Professorships of the College as convenient and comfortable berths for the members of a very limited number of highly respectable families whose professional success was not equal to their expectations, or to their annual outlay; and as Mr. Loring's salary as Judge of Probate was not quite up to the mark of fashionable expenditure in Boston, the idea had been hit upon by his friends, so it was suggested, of eking it out by making him Law Lecturer at Cambridge.

Now it must be confessed that several of the appointments to places in this College did seem to give some color to this scandal, but as every scandal, however great, soon dies away if let alone, so this one too might have passed into oblivion, had not the Corporation themselves taken special pains to revive it. The Lectureship was held only by a temporary appointment which required, from time to time, to be renewed; and, besides, the pay did not probably exceed half that of a Professorship. So the Corporation, about a year ago, with that very lively sense of the merits of Mr. Loring which, out of the public of Boston and that vicinity, seems to be confined pretty much to themselves, without at all consulting the Overseers on the subject, almost forgetful, apparently, of the existence of that body, proceeded to create a new and third Professorship of Law. And having created it, they proceeded to provide that the new Professor need *not* reside in Cambridge, the seat of the College. And having thus made things comfortable and convenient, they proceeded to nominate Mr. Edward Greely Loring as the said third Professor! They were encouraged, doubtless, to these bold strides by their success the year before in cramming down the throats of the Overseers, Mr. Francis Bowen as Professor of Moral and Political Philosophy; though within a twelve-month preceding his nomination as Professor of History had been decidedly rejected—a place, by the way, ever since kept open, waiting the convenience of some one of the select and favored few alone considered by this Corporation as having any right to fill it.

But some changes had taken place in the interval in the Board of Overseers, and in the case of Mr. Loring, and the new Professorship created for his benefit, that body did not prove so pliant. They referred the subject to a committee, and the report of that committee began with detecting the Corporation, if not in a falsehood, at least in an equivoque, fitter to be resorted to by a pettifogging attorney, than by a grave body composed of Doctors of Law and Doctors of Divinity. The resolutions creating the new Professorship began with declaring that the great increase of attendance on the School renders a new Professorship necessary. In point of fact, however, the attendance was proved to be decidedly less than it had been on an average during the life of Judge Story, when two Professors had been found sufficient. After the death of that eminent jurist and Professor, the attendance had for some time greatly fallen off. From its lowest point there had been a considerable increase, but that increase had not yet carried the attendance to the average of his time; and this was the pretended great increase set forth as making the new Professorship necessary.

The Committee further declared their opinion, that if the new Professorship were created, it ought to be filled, not by a Suffolk Judge of Probate, but by some competent person, who could and would give his whole time and talents to it. The case of Judge Story, Professor and Judge at the same time, they thought should not be regarded as the rule to be followed, except in cases where the Judge appointed Professor happened to be also a Judge Story—which they delicately hinted was not exactly the case with the pending nomination. They maintained, however, that no third Professorship was needed; and they gave the Corporation an excellent hint, which, had they been wise, they would have acted upon—that the extra funds of the School had better be devoted, not to the support of a new Professorship, but to the employment, as occasional lecturers on special subjects, of professional gentlemen of distinguished reputation and ability, whose connection with it might give an éclat to the School. The reading of this report was followed by a very hot discussion, which terminated in an adjournment without a vote, but in which the Corporation and their protegé were so severely handled, and left in so hopeless a position, that the Corporation cut short any further action by withdrawing their proposition.

Whether it was the hope to replace by slave-catching fees the salary of the Professorship which he did not get, or whether it was a disinterested regard for the safety of the Union, or malice against the human race, generally, and freedom of every sort, which not long after his defeat and disappointment, led Mr. Loring into the slave-catching business, we shall not presume to decide; but we hope, trust and believe that the Board of Overseers of Harvard College will decide that this business, from whatever motives entered into, is incompatible with the holding of any appointment upon which they have a veto.

In renominating Mr. Loring, the Corporation have done something worse than merely to attempt the continuance of a piece of favoritism. That, from its consecration by precedent and usage, has become almost a matter of course—what everybody expects and nobody is surprised at. The present nomination is something far more serious. It is an attempt to give to the infamous Fugitive Slave law, and to its mercenary executors, the indorsement of Massachusetts through her highest seminary of learning. It used, in former times, to be the custom of Europe to take the opinions of the Universities on such knotty questions of morals and casuistry as might arise for decision, and to their honor be it said, the Universities in such cases, with very few exceptions, took the side of rectitude and natural justice, basing their decisions, not on human tyrannical enactments, but upon the higher law. We trust the Overseers of Harvard College will take this opportunity to do the same thing. We trust they will give an emphatic expression to the public sentiment of New-England, and show by their action in this case that the recent change in the Constitution of their body, designed to bring them into sympathy with [illegible] ended, has

Topics of the Day.

In the House of Representatives on Saturday the amendment of the Constitution providing for a general plurality system in elections, was rejected, having failed to receive the requisite vote of two-thirds. Many members were absent, and as a reconsideration has been moved, it is to be hoped that the House will see the propriety of taking the vote on some day when there is a full attendance. This result is quite unexpected. If it should be persisted in, nearly the entire series of Constitutional reforms would seem to be in danger. If the plurality amendment should finally fail, its friends will have occasion to recall to memory the prediction of the advocates of the Constitution of 1853, that that instrument furnished the readiest means of obtaining the advantages of that system.

On the first page we have placed a report of Mr. Sumner's speech in Congress, and Mr. Lowell's Lecture on Poetic Diction. On the fourth page is a new poem by Whittier.

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DAILY ADVERTISER.

BOSTON:

TUESDAY MORNING, FEB. 13, 1855.

REMOVAL OF A JUDGE FOR NO MISBEHAVIOR.—The Constitution of Massachusetts provides that "all judicial officers, duly appointed, commissioned and sworn, shall hold their offices during good behavior. . . . . provided, nevertheless, the Governor, with consent of the council, may remove them upon the address of both houses of the legislature."

Now, it is not pretended by anybody that Mr. Loring has been guilty of any misbehavior in his office of Judge of Probate. But it is proposed to remove him from that office, not because he has misbehaved in it, but on account of his connexion with the rendition of Burns, in another official capacity, viz—as a Commissioner of the Circuit Court of the United States, to which office he was appointed prior to his appointment to be Judge of Probate. Or, to use the style of language held by the advocates of the removal, because he is "pro-slavery" and the sentiment of Massachusetts, and of the legislature is (they say) "anti-slavery."

We beg the members of the legislature, and especially those who counsel the members in this matter, to consider that if the Governor upon address of the two houses may remove Judge Loring because he is "pro-slavery" and the legislature is "anti-slavery"—they may by the same process remove Chief Justice Shaw and his associates because he is a reputed whig, and none of them are "Know Nothings," and they may fill up the bench with members of the secret order. Nor may this be done only this year, but always when there is a change in the administration—and the boasted permanence and independence of the judiciary will fall at the feet of the executive and legislative departments of the government, and change with every new breath of popular feeling.

This view is so monstrous and extravagant that a single glance at it is sufficient to show that the people of Massachusetts would never for a moment submit to the state of things which it represents.

Yet it will be seen that if the power of removing judges upon address vested in the executive and legislature as a security in case of the misbehavior of any judge in his office, can constitutionally and properly be used in deference to a supposed state of popular feeling, to remove Judge Loring, against whom no misbehavior in his office is alleged, it may be used equally to remove other judges whose opinions on any extraneous subject may be supposed to be at variance with those of the party in the ascendant for the time being.

The doctrine of our fathers, which has hitherto been adhered to in Massachusetts, was that the judiciary should be truly firm and independent. The new doctrine is that a judge who does not sympathize in opinion with the popular whim of the moment must be removed.

[illegible]ening Telegraph.

[illegible]ston, Monday, Feb. 12, 1855.

The Removal of Judge Loring.

We present below two communications which we have received from very respectable sources, upon this subject, replying to some points in Judge Loring's Remonstrance. We congratulate the petitioners and ourselves, that Judge Loring and his friends have at last been brought to a realization of the fact that the movement to disconnect the office of Judge of Probate from that of Slave Commissioner, is an earnest one, which de-

mands their more close attention than they were at first disposed to give it. The subject is now fairly before the public, and must be discussed, and not passed over in contemptuous silence any longer. We need not say that we rejoice that this is the case, and that we confidently believe that the more Judge Loring's conduct is considered, the more imperative become the reasons for his removal from the judicial office which he holds under the State.

Before the question is disposed of, we shall have other occasions to speak of this matter. At present we are content to give the views of our correspondents:—

SHALL THOSE WHO WILL CATCH SLAVES BE OUR JUDGES?—Mr. Commissioner Loring, by way of remonstrating against his removal from the office of Judge of Probate, has undertaken to present certain "facts and considerations."

It is to be noted that he offers no justification for his course of action in the slave case, although certifying a man is not a judicial act, and he might properly have addressed himself to that. He only wishes to justify acting at all.

There are some errors and omissions in his facts. In the first place it is not true that "no objection was ever made" by the government of Massachusetts to his discharge of *such duties* as a Commissioner, or that the State Legislature considered "*that the same qualities and experience which were employed for the rights and interests of our citizens*" should be devoted to slave catching.

In 1843, the State passed a law prohibiting any justice from taking cognizance of slave cases under the act of 1793, of which that of 1850 is an amendment, and from aiding in the arrest, detention, or imprisonment, in any building belonging to the city, of a person claimed as a fugitive slave. When therefore Mr. Loring, who had been appointed by the Circuit Court in 1841 to take bail and affidavits, was elevated to the rank of Probate Judge in 1847, he swore to keep this Massachusetts law. Yet he did *grant a certificate* and *expressly order Burns to be detained in the Court House*, as if to set this law at defiance. It is for this reason that the people of Massachusetts feel that their security has been lost by a "magistrate shaping his action by his own feelings and not by the *standing laws*."

For one, I consider this technical protest and plea for the right of the "*Commissioners*" to act on their "*convictions*," for which he undertakes to vouch, as the greatest insult he has offered the people yet.

The basis of the plea is that the State had never declared it to be incompatible with the duties of judge to aid, as magistrate, in slave-catching; had never notified the judges that it so regarded it; and had never prohibited such an act. Mean as this plea is, it is not true. For the Legislature and the people had again and again declared their sentiments most clearly; they had prohibited these very acts; they had pronounced slave hunting a thing not to done by our judges.

Again Mr. Loring says that it has always been the custom for Judges of Probate to engage in other business that does not interfere with the faithful discharge of their duties as judges, and refers to a single section of the Revised Statutes (prohibiting them from acting as counsel, &c.,) as being the sum of all restrictions on their acts. The custom has opened a door for great abuses. If the transaction of such business in such a way does not impair the qualifications of one to teach the "*principles of humanity and generous sentiments*" to youth in the State University, if it be not incompatible with the duties of a judge, who is placed in the most direct and intimate relations with the body of the people, in his own view, it certainly is "*likely to impair his general usefulness*" in the mind of the public.

Is it not perfectly lawful for this State, as a matter of its internal police, out of care for its own interests, as a safeguard for the liberty of its own citizens, out of respect for its own sentiments, or for its estimate of the rights of humanity, to restrict its own judges from such work, and to call them to account?

Or, to meet the Commissioner on his own ground, is there no just cause for removal, save for the violation of the letter of the law, or for crimes, immorality or incompetency that would render one liable to impeachment? Suppose that the manners, the standard of morals, the general sentiments of a judge were such that no one could approach him without disgust, is there no way to prevent him from standing as the guardian and administrator of the rights and affairs of the widows and orphan children of the county?

It is well that the history of Massachusetts furnishes no "precedent" for this case. It will be the best thing for Massachusetts, and for this country, if this case shall stand as a "precedent," and, instead of avoiding (as the protest prays) judging the "past acts" of a magistrate, and making prospective laws to be nullified again, she shall render just and equitable judgment on what she feels to be an abuse of power and a wrong.

JUDGE LORING'S REMONSTRANCE.—It has long been obvious to the community that Judge Loring, and the set of men with whom he has chosen to associate himself, consider obedience to the laws of the land a sufficient substitute for justice, humanity, and practical Christianity. They see no harm in taking the pound of flesh, (or the hundred and fifty pounds,) if it is "so nominated in the bond." Accordingly Judge Loring, in the Remonstrance which he has found it necessary to present, against the numerous petitions for his removal from office, rests his defence on the assertion that there is legal warrant for all that he has done, adding the general proposition that "Magistrates, if they are honest, administer the laws as they are committed to them." I am inclined to think that this depends somewhat upon the character of the laws, and that in the case of some laws, honesty in a magistrate will have directly the contrary operation. Even if a functionary should find himself, without any fault of his own, in a position in which he is expected to execute injustice by the instrumentality of law, he can at least retire from the office that involves such liability. This Judge Loring has not chosen to do. Possibly the removal may be effected without his help.

No law of Massachusetts forbids lying. But if Judge Loring were a common and notorious liar, there would be good reason for men to wish him removed from his office, and to take the necessary steps for such removal. He might remonstrate then, with as much pertinency as at present, that he had broken no law of Massachusetts. But that is not the point. The habitual liar would be deemed, and very justly, to have a *character* unfit for the proper performance of the duties of Judge of Probate, however closely he might stick to the letter of the law; and it appears to the petitioners that the deficiencies in justice and humanity made manifest in Judge Loring by his conduct in the case of Mr. Burns show *his* character to be unfit for the proper administration of the very important office he holds. So at least thinks

ONE OF THE PETITIONERS.

We subjoin the following paragraphs from an article on the subject in the Springfield *Republican* of Saturday. The *Republican* undoubtedly represents in this matter the opinions of a large majority of the people of the Western part of the State, of all classes, and we publish its article, not only for the force of its argument, but for the purpose of exposing the disingenuous artifice of the friends of Judge Loring, who are trying to represent that the movement against him comes entirely from the "abolitionists" and "free soilers." Such is by no means the fact. We have no sort of doubt that a very large majority of the people of the State expect and desire that Judge Loring shall be removed from his office, and that, if the removal is not effected this year, the effort will be renewed, and will be successful in a very short time.

The power of the Legislature to remove a judicial officer, appointed for life, is a power very rarely exercised. We do not know of an instance in which it has been used in the history of the state. It is a wisely-given, reformatory power, and we have no hesitation in saying should be exercised in the instance proposed. For its exercise, successfully, is required a majority vote of both branches of the Legislature, requesting the govern-

or to make the removal, when the governor and council may order it, and displace the officer by a new appointment.

In the case of the appointment as law lecturer, the power of the board of overseers to express their disapproval by a rejection is more simple, and has been recently exercised in the history of Mr. Bowen, whose extraordinary and boldly promulgated sympathy with Austria in its persecution of Hungary and the Hungarians, procured the re- [illegible] of his appointment as professor of history [illegible] a more conservative bo[illegible] of overseers than the present. We presume its exercise will be repeated upon Mr. Loring.

It is a difficult question for many minds in the free States to decide what is their duty and what the duty of their local governments with reference to the fugitive slave law. Our own conclusion is very decidedly against any nullification by law or by armed interference. So far as its execution is concerned, we would "let it alone very severely." Slave-catching is not respectable business in the slave States. Why should it be in the free? *The Southern States do not select slave-catchers for their places of honor and profit. They do not make judges of them, nor instructors of their youth. Why should Massachusetts permit those who engage in such business here on her free soil, to hold such elevated and respectable positions?* We see no practical or moral difference in the two cases. If there is any difference it is against the Massachusetts man who stoops to the business of catching niggers who are animated by a spirit that is an honor to every human heart; that is the stamp, the criterion indeed of a man.

We would that no Massachusetts man should lift a finger to execute the fugitive slave law. We would have that hateful statute a moral dead letter in this Commonwealth. We have this right,—that of quietly refusing to do its hateful business. We can suffer, if we cannot resist. This is Massachusetts feeling. This is what the people demand of those who hold positions of honor and profit at their hands. This is what Massachusetts expects of the instructors of her future law-givers, and what she has the right to insist shall animate the occupants of her judicial stations. There is no proscription, no persecution for opinion's sake in this. It is only self-respect. It is only fidelity to the first principles of human liberty and republican government

We shall therefore rejoice to see the work which the legislature and the board of overseers of Harvard College have before them with reference to Judge Loring, done. It should be understood that, with the consent of Massachusetts, the slave-hunters of the South can no longer have our judges and our law-instructors to aid in their inhuman, unmanly, dirty work of pursuing the panting fugitive from state to state, from asylum to asylum, and finally arresting him on a false pretense, and straining the technicalities of the law to hold him and send him back to a now hopeless bondage. If such work must be done in Massachusetts,—though if the moral feeling of *all* her citizens was right on this point, it could never more be done here—let it no more be by men who hold high commissions from her government, or rank among the socially, morally or politically eminent and worthy of her citizens.

DAILY ADVERTISER.

BOSTON:

THURSDAY MORNING, FEB. 15, 1855.

ANTI-SLAVERY EXCITEMENT.—We received on Tuesday another letter from Dr. S. G. Howe, which we print in another part of this morning's paper, omitting, however, some portions, which do not appear to us material to the reply, and to which we do not feel called upon to give publicity. The omissions are whole sentences, and the places where they are made are indicated by stars. An additional reason for curtailing the letter in this way has been the saving of space in our crowded columns.

We are very well aware that there will be complaint that we have not printed the letter in full, as also there will be complaint that we have printed so much of it. It is quite likely that some other journal may be found ready to print the whole, and to raise a cry against us for unfairness, and suppression, and so forth. But that the principle upon which we have acted is correct, no editor or other intelligent person can deny. It is doubtless true that a gentleman whose name has been mentioned in a public print in connexion with alleged facts which he does not admit to exist, or opinions which he disowns, has a right, under certain restrictions, to the use of the columns of the same print, to a reasonable extent of space, for the purpose of stating his denial of the facts and his disavowal of the opinions. But this gives him no privilege to use those columns at the same time for the advocacy of opinions contrary to those entertained by the conductors of the journal, and known to be disagreeable to most of its readers. Moreover the editor, and not his correspondent, must be the judge of what parts of the article are legitimate reply, and what are extraneous matter; and he not only may omit the letter, but he owes it to his character as a public journalist to do so, lest his paper become the vehicle for disseminating opinions which he believes unsound.

It is quite possible that the correctness of these principles may be called in question in their application in the present instance; but a little reflection will show that no journal could preserve a consistent character unless conducted with regard to them; else it would become in turn the organ of the views of each of its correspondents.

We desire to say further that we believe the discussion of these subjects at the present time ill-advised and not likely to lead to any good results. One of the worst features of the wicked repeal of the Missouri Compromise at the last session of Congress, as we pointed out at the time the Nebraska bill was pending, was its injustice to the Northern friends of the Constitution and supporters of the Compromise of 1850. In the first place those of them who opposed (as we and the whigs generally did) the outrageous breach of plighted faith, were stigmatized in Congress as abolitionists and free-soilers, and confounded with the Northern fanatics; and now in the revulsion of feeling at the North, which everybody knew would follow the passage of the Nebraska bill, those who are disposed to support the fugitive slave act, as a law of the land, are subjected to the derision of others, and to the mortification which they themselves cannot help feeling, when they see how little practical faith is exhibited by the Southern and the Democratic statesmen generally in the binding force of compromises.

It cannot be denied that the passage of the Nebraska act has caused anew a great excitement at the North, and in Massachusetts, on the subject of slavery. Everybody knew that its passage would cause this excitement. Our spokesmen in Congress told the nation that this would be the result, and warned them that it would let loose a torrent difficult to control. But these warnings were unheeded. In entire defiance of the sentiments of President Pierce's inaugural address and of the hopes generated by his almost unanimous election to the Presidency, distinctly on account of his supposed strongly national views, the whole weight of his administration was thrown towards the reopening of the slavery agitation in this new and most dangerous manner.

This excitement is doubtless an unhealthy state of public feeling; but it is one, as we believe, which must be remedied by time and not by argument. The people who give way to it are influenced by their feelings and not by their reason. When a man is under the influence of a strong excitement, particularly one caused by yielding himself too much to what are called the better emotions of the human heart, it is useless to reason with him, until he has had a little time to regain his own self-possession. Now the anti-slavery excitement at the North is of this nature. Something must be pardoned (to repeat the often-quoted sentiment of Burke), something must be pardoned to the spirit of liberty. They are good and generous feelings which underlie the excitement of the surface; and no harm will be done if they do not carry the people too far and into the commission of open and direct acts of wrong or folly.

We have too much respect for the intelligence and good sense of the people of Massachusetts to believe that they will allow themselves to be incited to the commission of any such act of wrong or folly under a temporary excitement. There is nothing which pains a sober and reflecting man more than the consciousness that he has, by giving way to the impulse of the moment, done a foolish or a wrong thing: and most men in our population are on their guard against doing such things. It is different among people less cool and less intelligent. Here in Massachusetts you may see a man very angry with another; he may appear to be ungovernable under the impulse of his passion; and yet should you put a loaded pistol in his hand, he would not fire it. Our New England people have too much self-command for this.

It is true that, relying upon the prevailing anti-slavery sentiment, some of the fanatics are endeavoring to persuade the people of Massachusetts through their legislature to commit an act of wrong and folly in the removal of Judge Loring. We do not believe they will succeed. The people of Massachusetts have too much sense for this. These fanatics are putting the loaded pistol into the hands of the angry man; but he will not fire it.

When the anti-slavery agitation presents a practical issue like this, we think it proper and necessary that a public journal, pretending to some influence over public opinion, should espouse a side, and should express its sentiments without hesitation or reserve. We accordingly have done and shall do all that we can to prevent the perpetration of so unjustifiable an act as the removal of Judge Loring, and to save Massachusetts from this disgrace.

But, as we have intimated above, unless in regard to some impending act of wrong or folly, we believe the discussion of the general subject useless and ill-timed. Discussion simply adds fuel to the flame. We have accordingly abstained, as far as possible, from such discussion. In the belief that it takes two to make a controversy, we have neglected the salient opportunities for commentary afforded by the Lectures on Slavery in this city the present winter. We have abstained from reporting those lectures, or from criticizing the ill-timed and injudicious expressions which excited lecturers have uttered and excited audiences have applauded. In this abstinence we believe we have been wise. There has been an evident desire to make the lectures notorious. From the first, convenient seats for reporters have been provided, which is an unusual measure. Often, indeed, reports of lectures are prohibited; here they have been courted. We would not misinterpret what may have been simply intended as a courtesy to the press on the part of those having charge of the arrangements; but we mention the fact as an indication of their willingness, if not their anxiety, to make the lectures as public as possible. That willingness and anxiety, we have, by our silence, done all in our power to refuse to gratify.

Our belief that the discussion of the general subject is useless and ill advised at the present time, is greatly confirmed by observing the course of other whig and conservative journals, such as the National Intelligencer and the New York Courier and Enquirer, where we observe that the same course has been pursued.

Our general opinion has been, and is, that stated above.

The trial of the individuals indicted for inciting to the acts of violence committed in May last is approaching. One of the judges before whom that trial will take place, is Hon. B. R. Curtis. There has been a manifest disposition to turn the excitement into the form of a personal odium towards that eminent jurist and upright judge. It seemed to us highly proper to expose this manœuvre; and we accordingly gave insertion to the article which appeared on the 1st inst., written for this ob-

ject. We had no intention, however, of opening our columns to a discussion or controversy.

Messrs. Elizur Wright and Samuel G. Howe thought they found in that article matters concerning themselves which demanded notice from them. Anxious to extend to them every reasonable privilege, we have admitted their letters under their own signatures, without, of course, endorsing ourselves their anti-slavery sentiments.

We cannot allow these gentlemen, or others, to protract the discussion in our columns.—We shall not be a party to any plan for further inflaming the dangerous and unhappy excitement of the times in which we live. We believe that our people are an order-loving and law-abiding people; and we believe that they will sustain the laws and the judges. Judge Curtis is known and respected by all men whose opinion is worth having. His conduct on the bench, in the approaching trial, will be narrowly watched; hut an honest and learned judge, such as he is, has nothing to fear from the closest scrutiny. Those who attempt to use the existing excitement to urge the people of Massachusetts to acts of indiscretion will find their acts recoil upon themselves.

[At Dr. Howe's request, he was furnished with a proof-sheet of his communication, a privilege accorded in rare cases, as a matter of courtesy, and a matter causing us a good deal of inconvenience. At a late hour last night the proof-sheet was returned, corrected, accompanied by a note from Dr. Howe requesting that we should not print his letter unless we print it entire. There are some revolting passages in the letter which we would on no account permit to appear in our columns; and we accordingly have only the alternative to print the letter with omissions, as we had prepared it,—or to comply with Dr. Howe's last request, and not print it at all. The brief space allowed us for deliberation has resulted in our deciding upon the latter course; and the letter, although in type and ready for publication, accordingly does not appear.

We print our own article above, precisely as it stood before receiving this late note.]

Harvard College.—An adjourned meeting of the Board of Overseers of Harvard College is appointed to be held in the Senate Chamber at the State House this afternoon. As our readers are aware, it is but a short time since the organization of the board has been perfected under the system established as one of their measures of reform by the coalition legislature of 1851. Up to that time the forty members of the Senate, with various other officers of the State government, had formed a portion of the board. As now organized the board consists chiefly of thirty members chosen by the legislature for terms of six years, five of them going out of office every year. Besides these, the Governor and Lieutenant Governor of the Commonwealth, the President of the Senate, the Speaker of the House of Representatives, the Secretary of the Board of Education and the President and Treasurer of the College, are members of the Board—making a total of thirty-seven.

The College is in a prosperous condition, although its large funds are so hampered with restrictions which a due regard to the sacred nature of their trust causes those who have charge of them to respect, as they should, and thereby deprives them of the opportunity of devoting the income to other objects which they might deem of more importance than those specified by the donors, and although there are many things in regard to which an addition to the funds would be desirable, yet, on the whole, the Treasurer's recent report exhibited the financial condition of the College in a gratifying light. Two or three liberal donations had been received during the year, and it appeared that the current receipts of the institution from income, tuition fees, and other charges, actually showed a balance over the current expenditures. It was thought that this balance might be reduced when the cost of certain repairs upon the buildings should be included in the account of the expenses. As Harvard College is not intended to be a money-making concern, we cannot doubt that if a similar balance of profit should continue to appear in the annual accounts, the means of usefulness of the institution will be extended by a reduction of the charges for tuition, rent of rooms in the college buildings, and the use of the library.

Nor is the financial prosperity of the college the only or the chief gratifying feature of its condition. The number of students is larger than at any previous time, and this is the case notwithstanding the great increase in the number of colleges within recent years, and the enhanced cost of living in Cambridge. The institution is under the control of a President, who though but lately placed in that honored office, has long been connected with the college in another capacity, which gave him peculiar facilities for learning the feelings and wants of the young men gathered together at Cambridge. We feel sure that we are simply recording an undoubted fact when we state that he has the respect, we might almost say the love, of the students, as he certainly possesses the confidence of the community, to a degree which could not be exceeded under the most favorable circumstances.

The various offices of instruction and government connected with the University are throughout filled with gentlemen as well fitted for their several posts as the circumstances allow. The election of Mr. James Russell Lowell to the professor's chair vacated by

Mr. Longfellow, which was stated in yesterday's paper, completes the educational staff, without any important exception, we believe, besides the Hollis Professorship, for which there is reason to suppose that measures are in progress, the result of which cannot fail to satisfy the public and the friends of the college.

It is in this prosperous and satisfactory state of the college that symptoms appear of a desire on the part of somebody to incite the Overseers to the commission of some act which shall show their power. It is not so much that there is any abuse to be reformed; but the Board of Overseers must needs prove to the world that it is a body whose action is to be feared, and whose influence is to be courted.

The occasion which has been selected for this exhibition of the Overseers' power is presented by the nomination of Edward G. Loring to be a lecturer in the Law School. The Overseers have been vehemently advised, at first by counsellors who made distant papers their organ, and afterwards those nearer home, to refuse to approve this nomination.

The power of the Overseers is simply to give or withhold their approval to the appointments of the corporation. Its chief operation, of course, in a regular and well-ordered state of things, would be as a regulating and controlling check on the action of the corporation before making its nominations rather than after. It is in this way that it has been hitherto generally regarded. The latest, perhaps the only instance, of a veto by the Overseers, occurred in the case of Mr. Bowen; and the Board took an early occasion to reverse its action in this case.

There have been indubitable manifestations of the desire on the part of the corporation to comply with the wishes of the Overseers with regard to this matter. Finding last winter that a proposition to create a third professorship in the Law School, of which Judge Loring was to be the incumbent, instead of the lectureship which he already filled, met with opposition in the Board of Overseers, the corporation withdrew the proposition. They renewed the lectureship which had before existed, and re-appointed Judge Loring to fill it. They now ask the concurrence of the Overseers in this return to the precise state of things which existed before the meetings of the Board last winter.

The practical point which the Overseers have to consider, is, whether Judge Loring is well qualified to be a lecturer in the Law School.—We do not see how they can well decide this question in the negative with a fair regard to the facts. In the first place, the corporation which appoints him, has among its six members, two lawyers, Lemuel Shaw and Charles G. Loring, whose recommendation is certainly entitled to weight. In the second place, there is also of direct evidence the testimony of the Royall professor in the Law School, Hon. Joel Parker, late Chief Justice of the Supreme Court of New Hampshire, who states in the closing sentence of a letter which we print this morning that the suggestion of making Judge Loring a professor instead of a lecturer emanated from himself. In the third place we are able to state that the Dane professor in the Law School, Hon. Theophilus Parsons, bears emphatic witness to the able and useful manner in which Judge Loring has discharged the duties of his lectureship. When we consider that it is not the custom in this country for candidates for professorships or lectureships in universities to bring written certificates of their qualifications, it must be admitted that the array of distinguished legal names which thus accidentally appear as certifying to the qualifications of Judge Loring is very strong.

To this may be added the opinion of the law students themselves, who would of course be able to see through any superficial acquirements of a lecturer. We understand that he is a very popular instructor; and that the respect of the students for his learning is not less than their admiration of his agreeable personal qualities.

We do not know what evidence the nature of the case admits in addition to this; unless it be the general opinion of community, in which so far as we know, Judge Loring has always been regarded as a good lawyer, and one competent to impart his knowledge to others in an agreeable and intelligible manner. His may not be the leading mind at the bar in America; nobody arrogates that position for him. But how often must it be repeated that those are not necessarily the best teachers who ar the best masters of a science? We believe that Judge Loring possesses in a peculiar degree (together with legal attainments by no means inconsiderable) precisely those qualities which make him a good lecturer.

On the other side, there is absolutely no evidence to the contrary. An attempt to prove a decline in recent years in the number of students attending the school has signally failed, as appears by Judge Parker's letter elsewhere. If it had been true that the number had decreased, it would have been no argument against Judge Loring's fitness to be a lecturer.

The refusal of the Overseers to confirm the appointment will gratify the personal jealousy of some of the members; and on the part of others, it will be a sacrifice to the anti-slavery excitement which is just now so conspicuous. Of the nature of that excitement we have spoken elsewhere, and we need not here point out that the influences which have caused it, can afford no just grounds for this act of personal proscription.

The action of the Overseers will be awaited with interest. The members of the board, we

doubt not, will recollect the weight of their responsibilities, and will take care that their votes are governed by none but high and honorable motives.

[We copy by request the following communication, which appeared in the Courier several days since. It is a calm and sober review of the subject to which it relates, and is worthy the attention of those who would be governed in their action in reference to it by reason rather than by passion, and by enlarged views of statesmanship rather than by mere personal prejudices.]

The Petitions for the Removal of E. G. Loring from the Office of Judge of Probate.

A number of petitions have been presented to the Legislature, asking for the removal of Edward G. Loring from the office of Judge of Probate. The sole reason assigned is the part which that gentleman sustained in the proceedings which resulted in the rendition of Anthony Burns, under the requirements of the law of the United States, commonly called "the Fugitive Slave Law."

No suggestion is made by any one of any cause of complaint, as to the manner in which Mr. Loring has executed the important trust which devolves upon him in the office from which his removal is asked for. It is conceded that he is a learned, attentive, upright and impartial judge. And it may be taken as a somewhat remarkable, as well as a very pregnant fact, that while the scope of his duties is limited to the county of Suffolk, most of the petitioners for his removal, both male and female, reside in other parts of the state. It is not doubted that many sincere and conscientious persons have been induced to affix their signatures to these petitions.

It is therefore proper, in any attempt which shall be made to expose the errors and the injustice of such petitions, to do it in the manner which their sincerity and conscientiousness are entitled to; leaving such designing persons as are prompted by malice or uncharitableness to the dreadful retribution of their own passions.

The propositon is to *punish* Judge Loring, for his acts in the Burns case, by removing him from the office of Judge of Probate without even the forms of an impeachment. The power to inflict such punishment is supposed to be derived from the following article of the Constitution:—

All judicial officers, duly appointed, commissioned and sworn, shall hold their offices during good behavior, excepting such concerning whom there is different provision made in this Constitution; provided, nevertheless, the Governor, with consent of the Council, may remove them upon the address of both houses of the Legislature.

Now the pusposc of this article of the Constitution is, to render judicial officers as independent as may be, of the legislative and executive branches of the government. This is the *sole* purpose of the article, and the proviso which contemplates a removal upon address must be so construed as not to contravene the whole purport and aim of the constitutional provision of which it makes a part. Other provisions are made in the constitution for the removal of a judge, by impeachment, for misconduct and maladministration in his office, and this power of removal upon address was never conferred upon the Legislature by the people, as an instrument for the punishment of a public officer, without any provision for a hearing, or any opportunity for defence; but was deemed necessary in cases where an officer may become incompetent (as through insanity, for instance) to perform the prescribed duties of the office, which he fills to the necessary exclusion of any other person, and may be incapable even of resigning his commission.

It would be a strange error to suppose that the identical provision of the constitution, which undertakes to make a judge independent of the Legislature for the time being, was intended to confer upon that Legislature the power of *punishing* that Judge for any offence which might be alleged against him, without a hearing, without evidence, and without any opportunity for a defence.

The writer is no lawyer, but he understands enough of the principles of republican policy to know that this cannot be constitutional law in Massachusetts, and therefore he says to the petitioners that they are requesting the Legislature to make use of an instrument of power in a manner and for a purpose for which it was not put into their hands, and which would be utterly inconsistent with the citizens' right: that the judges should be independent of the Executive, unless they could be impeached.

There is no doubt that many persons who have signed these petitions suppose that the performance of the duties objected to, by Mr. Loring, was a voluntary act on his part, which he might have undertaken or omitted at his pleasure. But such is not the fact. They do not know that the person whom they thus attack is an eminently kind-hearted gentleman, who, in the very acts of which they complain, was as much pained by the circumstances which imposed upon him the performance of a disagreeable duty, as they themselves were that the duty was performed.

Judge Loring holds the office of United States Commissioner, to which he had been duly appointed before he was made Judge of Probate for the county of Suffolk. There is no incompatibility, either legal or of any other nature, between the two offices. He has the same right to hold this office which any one of the other very respectable gentlemen in this city, who hold it, has.

The petitioners ask that Mr. Loring shall be punished by the state government, because he administered an existing law of the United States in the performance of the duties of the office which he holds under that government. Let us see what will become of the rights of citizens, when such a doctrine as this shall prevail and be carried out to its legitimate results.

It is intended that we should live under a government of laws and not under a government of men.—This is, and is declared to be the *end* of the "frame of government," which has been established for the people of Massachusetts. We boast of that condition. Our bill of rights declares that it is essential to that condition, that the judicial department of the government shall never exercise the legislative and executive powers, or either of them, "to the end it may be a government of laws and not of men." It is to be observed that this is declared to be the right, not of the government or of the existing administration of the government, but of each individual, who is put, by any means, under the control or the protection of Massachusetts laws. And it is declared that this right can be secured *only* by taking care that the magistrate who is called upon to interpret the laws and to administer justice shall never undertake to *make* the laws or to *execute* the laws.

The laws of the United States impose upon the Commissioners perfectly described and well defined duties. The highest judicial tribunal of our own State has declared the law, to the administration of which by Judge Loring objection is made by the petitioners, to be constitutional and therefore obligatory.

Besides the obligation, which rests upon each citizen, to obey the laws and to support the Constitution of the United States, this gentleman is under a formal oath to do so; and this oath is imposed upon him by our own laws, as one of the conditions of his entering upon the duties of the office which the petitioners seek his removal from. He has performed the duties enjoined upon him. No matter how painful to him the performance of those duties may have been. He must either have given a decision in exact accordance with his own conviction of the truth, at the time, or he must have stood before his country and his God a perjured man; and the proposition is to punish him because he did not dare so to stand.

But, it is said, the law is a cruel law and ought not to be enforced. If this be granted, does it follow that a magistrate, from whom its administration is demanded, may set it aside? The magistrate who

should administer such laws as he approves, and refuse to administer such laws as he did not approve, would indeed undertake the functions of the Legislature; and you would have a government of men and not a government of laws. In this view of the question the writer would say to the petitioners: you are asking the Legislature to punish a magistrate because he has not usurped legislative functions. The rights of citizens will be insecure when each magistrate may determine what laws may and what laws may not be administered.

There are many persons who think that Judge Loring is open to censure, because he did not refuse to have anything to do with the case referred to. The conclusive answer is that *he had no right to refuse.* The law is imperative upon the Commissioner. He *shall* issue the warrant upon proper petition. He has no more right to refuse to issue it than the clerk of a court has to refuse to issue any writ in due form; or than a sheriff has to refuse to execute a warrant; or than a judge has to refuse to pass sentence because a person may have been convicted under an unpopular statute; or than a Judge of Probate has to refuse probate to a will because he thinks it contains unjust provisions. He, like all other magistrates, must administer the law as he finds it, and not as he may wish that it was—or he is faithless. Commissioners are not appointed to determine what the law shall be, but to perform certain duties prescribed by the law.

But it is sometimes said that rather than perform duties, the consequence of which may be the sending back of a fugitive slave, a person ought to resign the office of Commissioner. If by this be meant that a person holding the office of Commissioner ought to resign it *when the performance of any of the known duties of the office is required of him*, the answer is that such a proceeding would be inexcusable. Any Commissioner who should so act would be impelled by the same spirit which would lead an officer in the army or the navy to hold a commission and to enjoy its emoluments in time of peace, with the intention of laying down that commission when ordered into active service; and such an officer would be branded as a coward.

If it be meant that it is wrong to hold an office to which such duties are attached, it would seem to be a sufficient answer that nobody proposes to proscribe the several gentlemen who hold the same office, and from each of whom the same duties may be *demanded* at any moment. Certainly no one of those gentlemen is holding the office with a mental reservation that he will refuse to peform its duties, or that he will resign it whenever those duties or any of them shall be required of him. For every officer, by accepting a trust, promises that he will perform its known duties, and such a mental reservation is a lie; and whoever makes it is false to the institutions under which he lives, and to the public whom he proposes to serve, and to the authority from which he receives his appointment. He is a liar and a deceiver, and ought to be despised of men. The holding of an office is a voluntary act, but the performance of the duties of an office by him who holds it is *not* a voluntary act; and any incumbent who shall treat it as if it were, is faithless to his trust.

In 1843, the Legislature of Massachusetts passed a statute making it illegal for any judge of a court of record, and for some other officers, to grant a certificate for the rendition of fugitive slaves, under the provisions of one of the sections of the law of Congress upon that subject, passed in 1793, and the writer has heard it suggested that the proceedings of Judge Loring, in the Burns case, were contrary to the spirit and intention of the law of 1843, although not contrary to its letter. This is a mistake, an innocent one, no doubt, on the part of many.

The law of 1793 did not *require*, but it *permitted*, judges of the state courts and the other state magistrates, referred to in the law of 1843, to act in such cases. Congress had no right to impose such duties upon state officers; and the government of Massachusetts had the right, and saw fit to exercise it, to prohibit its own officers from voluntarily assuming such service under commissions held from the State government. But the law of Congress, passed in 1850, makes it the *duty* of the United States Commissioners to render such service when demanded of them, and the government of the State has never undertaken to interfere with this requirement. It is one thing for Congress to declare by law that the certificate of State officer shall be valid in proceedings before the tribunals of the United States, and quite another thing for Congress to impose a duty upon an United States officer. The law of 1843 has reference solely to the former, and has not, either in letter or in spirit, any reference to the latter.

It is to be hoped that the day is distant when the government of the state of Massachusetts shall undertake to punish one of its own magistrates for the conscientious performance of the known duties of an office, which he is permitted to hold under the government of the United States; and it is cause for sincere regret that mistaken views as to the obligations and responsibilities of public officers should have led so many persons to take part in an endeavor to persecute a liberal and kind-hearted gentleman, because he has not shrunk from the performance of a painful duty under an unpopular law. The writer has nothing to say of the dishonest denunciations of designing men, nor of the prostitution of the pulpit to personal abuse, nor of the wicked attacks from infidel preachers and unscrupulous politicians. It is as unjust to denounce a Commissioner who renders a conscientious judgment upon a case in which he is called to sit, as a slave-catcher, as it would be to denounce a judge, who pronounces the extreme sentence of the law, as a murderer. Each magistrate does what the law, which he is bound to obey and to administer, requires at his hands. And he must do it, because the law requires it, and not because he wishes it. And when it shall come to pass that each magistrate may administer the law as he would have made it, instead of as it is, our lives, liberties and property will rest on no secure foundations. JUSTICE.

LAW SCHOOL AT CAMBRIDGE.

[The following letter was transmitted for insertion to another paper, where we believe it has not yet appeared; and as the facts stated in it will have little immediate interest after this day, a copy has been handed to us for publication.]

To the Editors of the New York Tribune:

GENTLEMEN,—My attention has been called to an article in your daily paper of Feb. 1st, entitled "A slave-catcher on his trial."

The correspondent who furnished the materials for that article had less knowledge than he supposed respecting the Law School of Harvard College, and has led you into an error, which it will doubtless be your pleasure to correct. He says:

"The resolutions creating the new Professorship began with declaring that the great increase of attendance on the School renders a new Professorship necessary. In point of fact, however, the attendance was proved to be decidedly less, than it had been on an average during the life of Judge Story, when two professors had been found sufficient. After the death of that eminent jurist and professor, the attendance had for some time greatly fallen off. From its lowest point there had been a considerable increase, but that increase had not yet carried the attendance to the average of his time, and this was the pretended great increase set forth as making the new Professorship necessary."

It is true that the attendance fell off after the decease of Judge Story, in 1845, and it is also true that there was a still farther reduction of numbers on the resignation of Professor Greenleaf, in 1848. Such a result was, perhaps, the unavoidable consequence of the loss of two instructors of such distinguished ability and large experience.

But it is not true,—it is very far from the truth,—that the subsequent "increase had not yet carried the attendance to the average of his" (Judge Story's) "time." On the contrary, "the average

of his time" was probably not more than two-thirds that of the year preceding the appointment of Judge Loring as professor.

In fact the attendance during that year was greater than it had been during any academical year in Judge Story's time, except the last. And the attendance at the term immediately preceding the proceedings of the overseers respecting Judge Loring's Professorship, was not only larger than the average of any three terms in Judge Story's time, but it was the largest of any term except one since the establishment of the School. There was no single term in Judge Story's time in which the attendance, as shown by the catalogues, equalled that of the autumn term of 1853; but the Steward's books show that the attendance at the term next preceding Judge Story's death was larger, the difference between the catalogue and the Steward's records being occasioned by the publication of the catalogue in the early part of the term, before all the students had entered.

It may be added that the average attendance during the last two years has been greater than the average of any similar period "in his time;" being 138 and a fraction, against 133 and a fraction during the two academic years preceding Judge Story's decease.

If the last three, or the last five, or the last seven, terms next preceding his death, are compared with similar periods next preceding the present time, the average is in favor of the latter periods. There were no three consecutive terms in which Judge Story instructed, in which the attendance was so large as during the last three.

According to the statistics of the American Almanac, the number of law schools in the United States in 1845 was nine. In 1855, there are seventeen. That the Law School of Harvard College should increase in numbers notwithstanding the loss of eminent professors, and this great increase of similar schools, may perhaps furnish some evidence that the instructors of the present day, if they do not "give an éclat" to the school, have not greatly neglected their duty.

There were two professors (Judge Story and Prof. Greenleaf) in the Law School of Harvard for several years when the average attendance was not more than seventy.

Nearly half the schools existing at the present time appear to have three instructors. The addition of a third instructor at Harvard has enabled the professors to double the number of the moot courts (a most laborious and important part of the exercises) and to introduce additional text books and topics for lectures. The "excellent hint," "that the extra funds of the school had better be devoted not to the support of a new professorship, but to the employment as occasional lecturers upon special subjects, of professional gentlemen of distinguished reputation and ability, whose connection with it might give an éclat to the school," is a hint respecting an impracticable arrangement. If the "professional gentlemen of distinguished reputation and ability" could be persuaded to "give an éclat to the school," "as occasional lecturers on special subjects," the law cannot be taught by lyceum lectures.

Whether it will be wise to reduce the corps of instruction, and go back to the old order of things, it is for the Corporation and the Overseers to judge.

It is but justice to the Corporation and to Judge Loring to say, in conclusion, that the first suggestion of the change of Judge L. from a lectureship to a professorship, with additional duties, came from the undersigned.

JOEL PARKER.

Cambridge, Feb. 6, 1855.

NOTE.—The statement of the attendance which was before me when this article was sent to the Tribune extended no farther back than 1840, but I had no doubt that the numbers prior to that time did not average sixty. A table, made up from the bill books, and since furnished by Wm. G. Stearns, Esq., the Steward, showed that the average attendance for the seven years previous to 1840, when Judge Story and Mr. Greenleaf were professors, was 54 2-7. The highest average in any one year within that period was not equal to the lowest within the last seven years.

Farther—the average for the twelve years in which they were instructors, was 81½. The average during the last seven years has been 111 1-7. Undoubtedly there were other causes for this difference than the relative merits of the instructors; but these facts may have some bearing upon the statements which have given occasion for this communication. J. P.

Evening Telegraph.

Boston, Wednesday, Feb. 14, 1855.

Judge Loring and Harvard College.

The Board of Overseers of Harvard College meet to-morrow, and among the nominations upon which they will be called to act, is that of Edward G. Loring, as Lecturer at the Law School in Cambridge. We have so fully expressed our opinion upon this subject, that we did not intend to recur to it again; but there are some things in a document which has just reached us, which seem to require public notice. This document is an appeal, by the friends of Judge Loring to the Overseers of the College, in behalf of his confirmation. It is a pamphlet of seven pages bearing no signatures.

After alluding to the fact of the existing opposition to Judge Loring, on account of his action in the Burns case, the writer inquires whether the overseers are prepared to say that whoever, as a magistrate, shall execute the laws of the United States for the rendition of fugitive slaves, shall be, *ipso facto*, incapacitated to be a professor or lecturer at the Law School of Harvard College. He then goes on to make the following remarkable argument:—

Do the Board of Overseers feel at liberty to administer the concerns of the Law School, entirely with reference to the supposed, or real, sentiments of Massachusetts? The Law School is an institution, which, while it is governed by citizens of Massachusetts, and is part of a University connected indirectly with the State, yet *sustains relations*—and very important ones—*to the whole country*. It has thus far drawn a great many students from the South; and no one will doubt, that it is quite important to have young men from the South receive their legal education in New England; where they can learn something of our laws and our institutions, see something of our social system, and become interested in what concerns our welfare It has been remarked by those who have had occasion and opportunity to notice the fact, that the Law School of Harvard College, since its revival in 1829, has been a very powerful instrument *in removing and softening sectional prejudices*. The great numbers of gentlemen who have resorted hither from distant parts of the Union have gone home and entered the legal profession, and have risen to high and important stations, with sound views of constitutional law, and with enlarged and liberal minds. If you meet with a Southern lawyer or politician, who is a secessionist, or a nullifier, or a hater of New England, you will rarely find that he was educated at Dane Law College. The men of the South and Southwest, who bear an LL. D. after their names, and who obtained that degree at Cambridge, are seldom found saying or doing anything against us or our interests. They have got too much of the staple of their minds and characters from that noble institution, to allow of their nourishing unworthy prejudices against the North. There is many a man in high public position in slaveholding States, who was educated under Judge Story and his colleagues in instruction, and who admires and respects New England, and hopes always to retain kind feelings towards her, to transmit such feelings to those who are to come after him, and to have them trained under the same or similar influences.

Is is worth while *to turn this current of students from our doors?* What is to be gained by it? Is it worth while to proclaim through the land, or to allow others to proclaim, that our Law School is never to admit into one of its chairs of instruction, any person who has acted simply as a magistrate in the rendition of a fugitive slave? Is it expedient to allow others to say, that a man who has already served in one of those chairs to the acceptance of the faculty, has been ejected from it, because as a magistrate he has executed this law of the United States? *What Southern parent would send his son here for his legal education, after he had seen cause to believe that a professor or a lecturer had been dismissed from the Law School for such a reason?*

In a note to the pamphlet, this argument is continued in this fashion:

There are now in the Law School students from eleven slave States and the District of Columbia; namely, from Maryland, North Carolina, South Carolina, Georgia, Arkansas, Alabama, Tennessee, Kentucky, Missouri, Mississippi, and the District of Columbia; their tuition fees alone amount to nearly $3000 per annum, and their whole disbursements in Cambridge cannot be much short of $10,000 a year.

Here we have the grounds upon which Judge Loring's confirmation is urged; and we may safely leave it to the public whether they are any *higher*, to say the least, than the grounds of objection to him. It is hardly necessary to argue against this low appeal to the most sordid feelings of human nature. Southern students, forsooth, will not come to the Law School, unless we show them that the managers have no prejudice against slavery and slave catching! We can best do this by placing in office a man who has rendered himself offensive to the people of Massachusetts by executing, in the most offensive manner, the law against fugitives! If this is the principle upon which the Corporation acts, it is a matter of no surprise that Southern men educated at Cambridge find no fault with the teachings there. If Harvard College is so devoted to slavery as to go out of its way, and openly defy the public opinion of the State, by appointing to office a man of very ordinary talent *in order that* the South may not be offended, well may her teachings be regarded as perfectly safe. But we do not believe that the young men of the South are such bigoted friends of slavery as to insist that a man who has been engaged in the business of returning slaves, shall be placed in the office of teacher, as security against the promulgation of obnoxious sentiments.

Harvard College Law School, say the friends of Judge Loring in this pamphlet, should not be administered, "entirely with reference to the supposed, or real sentiments of Massachusetts." That school "sustains important relations with the whole country;" and a list of eleven slave-holding States is given, from which students come, who pay the college $3000 a year, and who expend in the city of Cambridge, $10,000 a year. The omission of the territory of *Utah* from this list of places from which students come, suggests an important consideration for the corporation. Utah is a growing territory, and will by and by become a State.—Utah has a peculiar institution, known as polygamy, about which there are some elements of popularity which induce us to suppose that it may become prevalent even in other States. Suppose it should spread into other regions? Suppose Mormon young men should seek to obtain a knowledge of law at Harvard College Law School, bringing with them money to pay their fees, and other money to spend among the citizens of Cambridge? The same line of argument adopted in this pamphlet would require that a man should be appointed Lecturer who has no prejudice against polygamy. Perhaps a man who had so far shown an appreciation of the beauties of the doctrine as to possess himself of two wives, might be thought a proper person for Lecturer; so that the ingenuous Utah youth might return home to the Salt Lake, with their prejudices "softened" against New England.

But there is no need of replying at length to this sordid, debasing, doughface argument. We confidently leave it with the Board of Overseers.

There is only one other point in the pamphlet, and that is this: A practical application of the doctrine which requires Judge Loring's rejection "would have caused (says the writer of this pamphlet) the rejection of Joseph Story from the Dane Professorship; for he too, had, before he was nominated to that chair, taken part in the execution of the fugitive slave law of that day." The writer then undertakes to prove this assertion, but totally fails to maintain it. He says that in 1822, one Griffeth of Alexandria applied to Judge Davis for a warrant, for the arrest of some fugitives, under the law of 1793. Judge Davis doubted whether he was authorized to issue the warrant, and wrote to Judge Story for his opinion. Judge Story replied as follows:

"DEAR SIR:—I have examined the act of 1793, and am satisfied that your construction of the act is correct. No authority is given to the Judges to issue any warrant to arrest, and without such authority we have no jurisdiction. I know that Judge Livingston [of New York] has acted upon the same construction; and the defect of a power to issue a warrant has been by him considered as a serious evil, which ought to be remedied. The recent bill before Congress on this subject contained such a provision, and my impression is that it was inserted upon Judge Livingston's suggestion.

If the case should ultimately come before you upon an arrest by the claimant, and any difficulty should arise upon which my opinion will aid you, I will most cheerfully give it in any manner which you may wish. At present, it seems to me that the claimant must seize, upon his own responsibility, and with such aid of officers or private persons as he can procure.

With the highest respect,
I am Dear Sir,
Your much obliged friend,
JOSEPH STORY.
The Honorable Judge Davis"

It appears from this that Judge Story not only never executed the Fugitive Slave Law, but advised Judge Davis not to issue a warrant, and said not a word from which the inference can be drawn that he would have acted as Judge Loring acted. What an extremity must Judge Loring's friends be in, when they are thus obliged to *libel* Judge Story, in order to make out a case for the Commissioner in the Burns case.

The pamphlet says:

"There is no more just ground for saying now that the moral feeling of the State requires the rejection of Judge Loring, than there would have been in that day for saying that it required the rejection of Judge Story."

Is there not? Even if it were shown that the law of 1850 is no more obnoxious than the law of 1793; even if it were shown that Judge Story *did* aid, with his advice Judge Davis—and neither of these things are shown—we must ask this writer to consider that the people of Massachusetts since 1822, have, on various occasions expressed their sentiments, in no equivocal manner, in relation to the seizure of fugitives. In the year 1843, a law was passed prohibiting magistrates of the State from acting under the law of 1793, and prohibiting the use of the jails of the State for the confinement of fugitives under that act. So there has been an essential advance of the "moral feeling" of the State on this subject, since 1822—so important an advance, we believe, that the Overseers of the College will not think for a moment of retaining in office, as teacher of law, a man who has made himself so offensive as Judge Loring, who, besides defying the well-known public sentiment of the State, has violated the spirit, if not the letter, of the State law of 1843.

HOUSE....No. 63.

Commonwealth of Massachusetts.

To the Hon. the Senate and House of Representatives in General Court assembled:—

The Remonstrance and Protest of Edward G. Loring, Judge of Probate within and for the County of Suffolk, against the Petitions of various persons praying for the removal of the said Edward G. Loring from his office aforesaid.

Against the prayers of the Petitioners, I respectfully ask leave to submit to your honorable bodies the following facts and considerations:—

In the year 1840, while a counsellor at law, practising in the courts of law of this Commonwealth and in the courts of the United States held within the same, I was, by the Hon. Joseph Story and the Hon. John Davis, then Justices of the Circuit Court of the United States for the First Circuit and District of Massachusetts, appointed to be a Commissioner of said Circuit Court, "to take bail and affidavits" pursuant to the Acts of Congress passed A. D. 1812 and 1817.

In the year 1847, while still holding and exercising the office of commissioner as aforesaid, I was appointed by his Excellency George N. Briggs, then Governor of this Com-

monwealth, by and with the advice of his council, Judge of Probate within and for the county of Suffolk.

I have ever since held the said offices; from time immemorial it has been customary for Judges of Probate in this Commonwealth to engage in and transact any business which is not incompatible with the faithful discharge of their probate duties, and that incompatibility is now limited and fixed by the Revised Statutes, chapter 83; and the office of commissioner of the Circuit Courts of the United States, from its creation in 1812, has been always held in this Commonwealth by those who were, as justices of the peace or otherwise, State magistrates.

By an Act of Congress passed A. D. 1793, in execution of the 4th article of the constitution of the United States, jurisdiction in all cases of the extradition of fugitives from service or labor had been vested "in any magistrate of a county, city or town corporate," and therefore in this Commonwealth, in any person holding a commission as a justice of the peace, irrespective of his fitness for the important duties under the Act, or his official or moral character, or of any debasement of both through which his official services might be prostituted to claimants who would pay for them and who were left free to pay any sums their purposes might require; and under the Act of 1793, respondents in the cases for which it provided had no security against the chance of such a tribunal.

By an Act of Congress passed A. D. 1850, chapter 60, while I held, and had long held, the office of commissioner, the jurisdiction in question was transferred to the commissioners of the Circuit Courts of the United States. These officers were counsellors at law, appointed by the Circuit Courts in which they practised for the performance of other and judicial duties, and therefore presumed to be experienced in the administration of justice; their official duties were formally and publicly performed, and on their responsibility of their official position and personal character; and this tribunal was substituted for that under the Act of 1793. To remove this tribunal from corrupting influences, its fees were fixed and limited to a compensation for the merely clerical labor performed.

In the year 1851, the Act of Congress of 1850 was declared,

by the unanimous opinion of the justices of the Supreme Judicial Court of the Commonwealth of Massachusetts, to be a constitutional law of the United States, passed by Congress in execution of the 4th article of the constitution of the United States, and, as such, the supreme law of Massachusetts. (7 Cush. Rep. 285.) And in exposition of the subject, after reference to the nature of the constitution of the United States as a compromise of mutual rights, creating mutual obligations and duties, it was declared, (page 319,)—

"In this spirit, and with these views steadily in prospect, it seems to be the duty of all judges and magistrates to expound and apply these provisions in the constitution and laws of the United States, and in this spirit it behooves all persons bound to obey the laws of the United States to consider and regard them."

And this authoritative direction as to the duties of the magistrates and people of Massachusetts was given in direct reference to the 4th article of the constitution of the United States, the U. S. Act of 1850, and the laws of Massachusetts, as they then were and have ever since been.

Under all these circumstances, by an application unexpectedly made to me in due form of law, in May, 1854, and of which my first notice was the presentation of the complaint for a warrant, it became my painful duty, as commissioner as aforesaid, to perform the official act for which my removal from the office of Judge of Probate is now sought by the petitioners; the same being the extradition of Anthony Burns, claimed as a fugitive from service or labor under the U. S. Act of 1850.

The duty of commissioners of the Circuit Courts of the United States, under the U. S. Act of 1850, is imperative upon them; for by the terms of the Act they are not merely authorized, but they are expressly "*required*, to exercise and discharge all the powers and duties conferred by this Act." An application made pursuant to law to any one commissioner fixes that duty on him, and after such application he can neither decline it nor evade it; for, if he could legally do so, all others might; and then not only the statute, but the constitution, of the United States would be violated, and the public faith

pledged to it, and the oaths to support it would be broken. In this conviction the commissioners of the Circuit Court of the United States in this Commonwealth, refusing all pecuniary compensation, have performed their duties to the constitution and the laws.

Magistrates do not make the laws, and it is not for them to usurp or infringe upon that high power; therefore, if they are honest, they administer the laws as they are committed to them. On this depends the security of every thing the law protects; and that security will be lost when magistrates shall shape their official action by their own or the popular feeling instead of "*standing laws.*"

When I was appointed Judge of Probate, I was, by the authority of the people of Massachusetts, bound by an official oath to support the constitution of the United States. This is to be done only by fulfilling the provisions of the constitution, and of those laws of the United States which are constitutionally made to carry the constitution into effect; and on the authority of the Supreme Judicial Court of Massachusetts, I confidently claim that, in my action under the U. S. Act of 1850, I exactly complied with the official oath imposed on me by the authority of the people of Massachusetts.

And I respectfully submit, that when (while acting as a commissioner) I received my commission as Judge of Probate, no objection was made by the executive of the Commonwealth, or of any other branch of the government, to my further discharge of the duties of a commissioner; nor at the passage of the Act of 1850, when the jurisdiction aforesaid was given to commissioners of the Circuit Courts of the United States, nor at any time since, was I notified that the government of Massachusetts, or either the executive or legislative branch thereof, regarded the two offices as incompatible, or were of opinion that the same qualities and experience which were employed for the rights and interests of our own citizens should not be employed for the protection of all the legal rights of alleged fugitives from service or labor under the U. S. Act of 1850.

I make these latter remarks only for the purpose of bringing respectfully to the notice and clear apprehension of your honorable bodies the extreme injustice and want of equity that

would be involved in the removal of a judge from office for the past discharge of other official duties not by law made incompatible with his duties as judge, against his exercise of which no official objection had ever been raised, and which were created and imposed on him by that law of the land which is the supreme law of Massachusetts.

And, in answer to the prayer of the petitioners, I claim as facts, that the extradition of fugitives from service or labor is within the provisions of the constitution of the United States; that the U. S. Act of 1850 was, and is, the law of the land; and by the decision of the Supreme Judicial Court of this Commonwealth, obligatory on all its magistrates and people, that action under the said Act was lawful, and not prohibited by any State law to the judicial officers of the State, and was in conformity with the official oath of all officers of the State to support the constitution of the United States.

And I respectfully submit to your honorable bodies, that when the petitioners ask you to punish a judicial officer for an act not prohibited by any statute of Massachusetts, but lawful under those statutes, and imposed by that law of the land which is the law of Massachusetts, they ask of you an abuse of power for which the legislative history of Massachusetts furnishes no precedent.

All of which is respectfully submitted,

EDWARD G. LORING.

Boston, February 9, 1855.

To the Overseers of Harvard College—

Intimations have been given of the existence, in certain quarters, of a purpose to oppose the confirmation of Judge Loring, by the Board of Overseers, as Lecturer at the Law School, because he has acted as a Commissioner in the execution of what is called the Fugitive Slave Law. Judge Loring has filled the place of Lecturer very usefully, for several years, and is now again nominated to it by the Corporation. If such a purpose as that above referred to is entertained a grave question is likely to arise, in the management of the College. It is no less than this:— Will the Overseers reject a nominee of the Corporation, whose services that nomination has ascertained to be valuable to the Law School, because he has acted as Commissioner in the rendition of a fugitive slave?

No one, it is presumed, would wish to punish Judge Loring for the existence of the Fugitive Slave Law, or for the existence of that clause in the Constitution of the United States, which the Judges of the Supreme Court of Massachusetts have unanimously declared to be the authority for the enactment of

the Law. Judge Loring is responsible neither for the Law, nor for the Constitution, nor for the authoritative Declaration of the Supreme Court of this State, that the Law is in conformity with the Constitution. All that anybody can undertake to hold him responsible for, is, the having acted as magistrate in the execution of this Law; — and therefore, it is respectfully suggested, what the Board of Overseers have to consider, is, whether it is either just or expedient to reject him, or to allow it to be said that he has been rejected, for this reason.

There are those who have taken the ground that the moral feeling of Massachusetts ought to be indicated by Judge Loring's rejection. If there is any feeling that demands to be vindicated on this way, it can only be one that is prepared to say, that whoever, as a magistrate, shall execute the laws of the United States for the rendition of fugitive slaves, shall be, ipso facto, incapacitated to be a professor or lecturer at the Law School of Harvard College. Will the Board of Overseers either make this declaration, or act upon it without making it, or put it in the power of other persons to say that they have acted upon it?

Do the Board of Overseers feel at liberty to administer the concerns of the Law School, entirely with reference to the supposed, or real, sentiments Massachusetts? The Law School is an institution, which,

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while it is governed by citizens of Massachusetts and is part of a University connected indirectly with the State, ~~yet sustains~~ relations — and very important ones — to the whole country. It has thus far drawn a great many students from the South and no one will doubt, that it is quite important to have young men from the South receive their legal education in New England; where they can learn something of our laws and our institutions, see something of our social system, and become interested in what concerns our welfare. It has been remarked by those who have had occasion and opportunity to notice the fact, that the Law School of Harvard College, since its revival in 1829, has been a very powerful instrument in removing and softening sectional prejudices. The great numbers of gentlemen who have resorted hither from distant parts of the Union, have gone home and entered the legal profession, and have risen to high and important stations, with sound views of constitutional law, and with enlarged and liberal minds. If you meet with a Southern lawyer or politician, who is a secessionist, or a nullifier, or a hater of New England, you will rarely find that he was educated Dane Law College. The men of the South and Southwest, who bear an LL.B. after their names, and who obtained that degree at Cambridge,

are seldom found saying or doing anything against it or our interests. They have got too much of the staple of their minds and characters from that noble institution, to allow of their nourishing unworthy prejudices against the North. There is many a man in high public position in slave-holding States, who was educated under Judge Story and his colleagues in instructions and who admires and respects New-England, and hopes always to retain kind feelings towards her, to transmit such feelings to those who are to come after him, and to have them trained under the same or similar influences.

Is it worth while to turn this current of students from our doors? What is to be gained by it? Is it worth while to proclaim through the land, or to allow others to proclaim, that our Law School is never to admit into one of its chairs of instruction, any person who has acted simply as a magistrate in the rendition of a fugitive slave? Is it expedient to allow others to say, that a man who has already served in one of those chairs to the acceptance of the Faculty, has been ejected from it, because as a magistrate he had executed this law of the United States? What Southern parent would send a son here for his legal education, after he had seen cause to believe that a professor or a lecturer had been dismissed from the Law School for such a reason?

It will not do to say that the South may keep their sons at home — that the Law School does not want them. The Law School wants every student from every quarter of the country, whom a broad and liberal management can attract to its halls. It wants them, because it is for the interests of sound legal learning,)-good statesmanship; and the cultivation of good feeling between distant sections, that they should come here. We have the means in our hands of promoting these interests, to a very great extent; and we are bound to use those means as a Trust for the benefit of the whole country.

It is worth while to look back for a few years, and to see what would have been the effect of a practical application, at a former period, by the Board of Overseers, of such a principle of action as would be involved in the rejection of Mr. Loring, for the reason we are now considering. It would have caused the rejection of Joseph Story from the Dane Professorship: for he, too, had, before he was nominated to that chair, taken part in the execution of the Fugitive Slave Law of that day. It would, in like manner, have caused the rejection of the late Judge Davis, and of his predecessor, the late Judge Lowell, if they had ever been nominated to places of instruction in the Law School.

In July, 1822, one Griffith of Alexandria, Va. made

application to Judge Davis for a warrant to arrest nine fugitive slaves, then in the town of New-Bedford. Judge Davis replied to this application, that the act of Congress passed in 1793 did not seem to authorize him to issue a warrant of arrest, but that it contemplated a seizure by the claimant himself, without process; and that the claimant, having arrested the fugitive, should bring him before the Judge for a certificate to authorize his removal. Before refusing the warrant, however, Judge Davis wrote to Mr. Justice Story for his view of the law, and received from him the following answer:—

Salem, July 22d, 1822.

Dear Sir:—I have examined the act of 1793, and am satisfied that your construction of the act is correct. No authority is given to the Judges to issue any warrant to arrest, and without such authority we have no jurisdiction. I know that Judge Livingston (of New York) has acted upon the same construction; and the defect of a power to issue a warrant has been by him considered as a serious evil, which ought to be remedied. The recent Bill before Congress on this subject contained such a provision, and my impression is that it was inserted upon Judge Livingston suggestion. . . .

If the case should ultimately come before you upon an arrest by the claimant, and any difficulty should arise upon (5) which my opinion will aid you,

I will most cheerfully give it in any manner which you may wish. At present, it seems to me that the claimant must seize, upon his own responsibility, and with such aid of officers or private persons as he can procure.

With the highest respect,
I am Dear Sir
Your much obliged friend,
Joseph Story.

The Honorable Judge Davis.

On the next day after the date of this letter, Judge Davis delivered the following opinion:—

Mass. Dist. Boston, July 23, 182.

The process prayed for in the within application or the legality of granting it, must depend on the Act of Congress of Feb. 12, 1793, entitled an Act, &c. Having examined the Act and considered the question before me, I am of opinion that I am not thereby authorized to issue a warrant commanding a seizure of the persons described in the petition on the grounds therein alleged. The seizure, or arrest, authorized by the Statute in cases of this description, is expressly limited to be made by the person to whom the alleged service or labor may be due, or by his agent or attorney, and the agency of the magistrate is confined to an examination of the truth of the allegations when the party shall be brought before him after such seizure, and to giving

the requisite certificate if he shall be satisfied of the validity of the claim. The plain requirements of a directory Statute must be strictly pursued; and no authority is given by the act to issue the process requested. This is the first application on the Statute which has been made to me; but I recollect a similar case before my predecessor the late Judge Lowell, in which the seizure was made by the owner's agent, and after a hearing before the Judge a certificate was issued to the claimant. In view of the embarrassments (6) which may attend personal arrests without process from a magistrate, the act under consideration may be in a degree defective. But the course intended by Congress is too plainly expressed, as appears to me, to admit of a deviation in practice by judicial discretion.

Certified at the request of the applicant,

J. Davis,

Dist. Judge, &c.

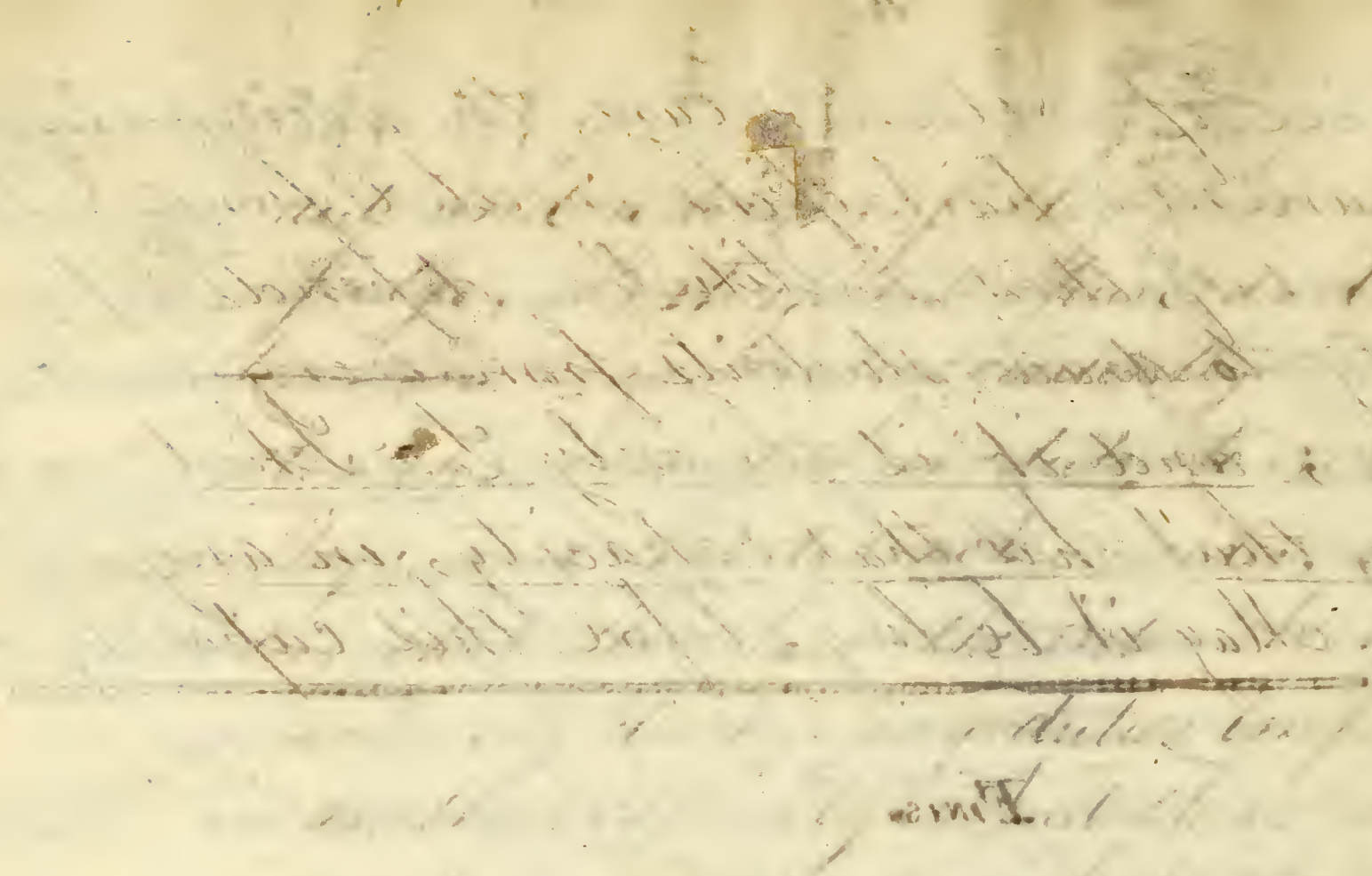
After this decision, the claimant proceeded to New Bedford, took the nine fugitives, and brought them to Boston. A hearing was had before Judge Davis, in the case of each of them, and a certificate was granted, under which they were all removed to Virginia. It may be well for those who blame Judge Loring, to remember that both Judge Story and Judge Davis were members of the Corporation of Harvard College, at the time of this transaction. The latter actually surrendered

nine fugitives to a single claimant; the former proffered his aid and advice, if they were wanted by his brother Judge. Both of these pure and eminent ~~statesmen~~ magistrates evidently considered that as magistrates, it was their duty to execute the laws of the country; and they did not consider, or feel bound to consider, that they put the interests of the College in jeopardy, by discharging duties composed upon them in another capacity. And there is no more just ground for saying now that the moral feeling of the State requires the rejection of Judge Loring, than there would have been in that day for saying that it required the rejection of Judge Story. Whether done now, or done then, the rejection of a Professor, or Lecturer, for this cause, would be precisely the same declaration - namely, that a magistrate, who executes the laws of the United States for the rendition of fugitives, shall not, however well qualified he may be, be a teacher at the Law School of Harvard College. If this principle of action had been adopted in 1829, would Massachusetts ever have had such a Law School as she has had for nearly thirty years? Would the Law School of Harvard College ever have been of any more importance than it had been before the year 1829? Would it ever have had Nathan Dane's donation? Would it ever have had Judge Story as Professor, and the great accession of income which he earned for the institution, in

a service of sixteen years, the accumulations of which are now part of its invested funds? The greatusefulness of that institution depends upon its capacity to draw students from every part of the country; and if it the only Law School in this Union, that has that capacity, in any important degree. May it be long, before this capacity is lost.*

FINIS.

* There are now in the Law School students from eleven slave States and the District of Columbia; namely, from Maryland, North Carolina, South Carolina, Georgia, Arkansas, Alabama, Tennessee, Kentucky, Missouri, Mississippi and the District of Columbia: their tuition fees alone amount to nearly $3000 per annum and their whole disbursements in Cambridge cannot be much short of $10,000 a year.



The Kidnapping of Anthony Burns

1854.

Pt. III.

DAILY ADVERTISER.

BOSTON:

FRIDAY MORNING, FEB. 16, 1855.

THE LAW LECTURESHIP.—It is with pain although scarcely with surprise, that we recor in another part of this morning's paper, th discreditable refusal of the Board of Overseer of Harvard College to confirm the appoint ment by the President and Fellows, (otherwis called the Corporation,) of Mr. Edward G. Loring to be a lecturer in the Law School. That the appointment was eminently a fit and excellent one, we feel sure would not be doubted by those who should bring to the consideration of his qualifications minds wholly free from excitement or prejudice. It is an appointment which was once before sanctioned by the Board of Overseers, at a time when (we may say it without disparagement to the present Board, since nearly two-thirds of the members have not been changed,) it was composed of members in all respects not less respectable nor less competent to form an opinion on the subject, than those now occupying the Overseers' seats. Judge Loring's name was again brought before the Board, and a change of the lectureship to a professorship was proposed by the corporation last winter but the proposition was withdrawn before a vote upon it, on the appearance of indications that the professorship would not be wholly satisfactory to the Overseers. The corporation having withdrawn this proposition, renewed the lectureship, and re-appointed Judge Loring to fill it. By their vote of yesterday the Overseers refused to confirm this re-appointment.

Our regular report of the proceedings of the Overseers yesterday, will be found in another part of this paper. It includes a statement of the votes on each side as nearly as can be ascertained, or (in the case of a few members) *guessed*. It must be understood that there may be mistakes in the statement. If, however, injustice is done to any member of the Board by placing his name among the negative votes, it follows there is a reciprocal error somewhere in the affirmative list.

The shame of this proceeding falls upon the twenty Overseers alone. Judge Loring need feel no mortification at their rudeness. Having received three separate appointments, twice to be lecturer and once to be professor, from the corporation of Harvard College, a body embracing two such eminent lawyers as Chief Justice Shaw and Charles G. Loring; his appointment to this very same lectureship having been confirmed by a large majority by the Overseers at a time when there was nothing to embarrass an impartial decision; his success and industry in his teachings being attested, as it is, by the professors in the Law School where he has lectured, learned lawyers like Joel Parker and Theophilus Parsons—having secured as he has, the respect and regard of his students—and, finally, retaining, as he does, under all his persecutions, the confidence and esteem of the sounder part of the community in which he lives—a gentleman who has these substantial proofs of the usefulness of the services from which he is now relieved, such men as Emory Washburn, John H. Clifford and Robert C. Winthrop voting in his favor, need feel no mortification that he has failed to gain the support of such statesmen as Henry J. Gardner, or such jurists as Thomas Russell, in the Board of Overseers.

We should dismiss the subject without further remark did we not wish to caution the public and the legislature against regarding this proceeding as an indication of the propriety of the removal of Mr. Loring from his office of Judge of Probate. The difference in the two cases is almost too obvious to need to be pointed out. The Overseers undoubtedly have the *right*, if in their judgment the proposed incumbent is unfit, to negative an appointment of the corporation, just as either house of the legislature may reject a bill passed by the other, or the Governor may veto one which has passed both houses. Such a negative by the Overseers is a very different proceeding from the formal removal upon address of a judge from his office, for no misbehavior in it. This, in the case of Judge Loring would be, in our opinion, an unconstitutional and arbitrary exercise of power; while the other, though we disapprove it, we admit is legitimate in form. Moreover, it is well known that there were some personal reasons affecting the Overseers' vote, entirely disconnected with Judge Loring's action in the Burns rendition; which latter is the only pretext for removing him from his judgeship.

For the purpose of showing the true nature of the proposition to remove Judge Loring, we quote the following brief article from a paper published in another State, where the matter can be regarded calmly and without prejudice. The paper is the Providence Journal, one which is distinguished for the care with which it generally forms its opinions, and the candor and independence with which it expresses them :—

The attempt made in Massachusetts to remove Judge Loring from the judicial office which he holds under the State, on account of the decision which he rendered while acting as an officer under the United States, is a most unjustifiable thing and full of danger as a precedent. If there was any corruption alleged, the case would be different; but as it stands, the removal of Judge Loring would be to say to the judges, not only of the smaller but of the higher tribunals, "unless your decisions conform to the public opinion of the day, your offices shall

be forfeited." It changes the term of office from that of good behavior to that of conformity with the wishes of the accidental majority, and makes an appeal from the careful condensed opinion of the courts to the wild tumult of partisan politics. The fugitive slave law is a very hard law, but it is a law, and the judicial authorities are bound to administer it as they find it, not as they would like to make it. Remove a judge who does his duty in the administration of an unpopular law, and put in his place a man who will execute the statutes of public opinion instead of those of Con-

MEETING OF THE BOARD OF OVERSEERS OF HARVARD COLLEGE.

At the adjourned meeting of the Board of Overseers of Harvard College, held yesterday afternoon in the Senate Chamber, thirty members were presen and His Excellency Governor Gardner presided. T records of the last meeting were read by th ecretary.

he next business in order before the meeting was question of concurrence in the appointment of n. Edward G. Loring to be lecturer in the Law ool.

)n motion of Rev. Rodney A. Miller the vote was en by ballot; and Rev. R. A. Miller, Hon. Messrs. W. Alvord, and Francis Bassett were appointed receive and count the votes.

Whole number of votes.....30
Yeas.....10
Nays.....20

And the chair declared that the Board had refus- to concur in the appointment. [See below.]

As the vote upon confirming Judge Loring as Law ecturer was by ballot, it is of course impossible to ate with absolute certainty how the members of the oard voted; but many of them made no secret of heir action, and from the most authentic sources of nformation accessible, our reporter has compiled the ollowing list, which we believe is a correct statement of the vote. The Board consists of 37 members, five of whom hold their seats by virtue of their connection with the State Government, two (the President and Treasurer) by virtue of their connection with the college, and thirty are elected for terms of six years, by the legislature.

The following members are known to have been *absent* yesterday:—

Hon. Caleb Cushing,
Rev. Baron Stow, D. D.,
Hon. David Sears,
Hon. Marcus Morton, (ex-Governor),
Rev. Samuel M. Worcester, D. D.,
Hon. Julius Rockwell,
Hon. Richard Fletcher—7.

The following members are believed to have voted *yea*, (in favor of confirming the nomination):—

Hon. Emory Washburn (ex-Governor).
Hon. John H. Clifford, (ex-Governor),
Hon. Abbott Lawrence,
Hon. Robert C. Winthrop,
Hon. Reuben A. Chapman, of Springfield,
Rev. Ezra S. Gannett, D. D.,
Rev. George W. Blagden, D. D.,
Rev. Thomas Worcester,
Rev. James Walker, D. D., (President of the College),
William T. Andrews (Treasurer of the College)—10.

The following members are believed to have voted *nay* (against confirming the nomination):—

Hon. Henry J. Gardner (Governor),
Hon. Simon Brown (Lieutenant Governor),
Hon. Henry W. Benchley (President of the Senate),
Hon. Daniel C. Eddy (Speaker of the House),
Rev. Barnas Sears, D.D. (Secretary of the Board of Education),
Hon. George N. Briggs (ex-Governor),
Hon. George S. Boutwell (ex-Governor),
Hon. Samuel Hoar of Concord,
Hon. Samuel D. Bradford,
Hon. Francis Bassett,
Hon. George Morey,
Hon. Joel Hayden of Williamsburg,
Hon. Thomas Russell (Judge Boston Police Court),
Hon. Daniel W. Alvord of Greenfield,
Rev. Hosea Ballou, 2d, D.D.,
Rev. Rodney A. Miller,
Rev. J. H. Twombly,
Nathaniel Cogswell,
H. B. Wheelwright,
Nathaniel B. Shurtleff—20.

THE LAW LECTURESHIP.—We remarked in the Daily Advertiser yesterday that the appointment of Judge Loring to be a lecturer in the Law School—

"Was once before sanctioned by the Board of Overseers, at a time when (we may say it without disparagement to the present Board, since nearly two-thirds of the members have not been changed,) it was composed of members in all respects not less respectable nor less competent to form an opinion on the subject, than those now occupying the Overseers' seats."

Our attention has been called to the fact that the parenthesis considerably over-states the fraction; we should have said "less than one-third." It appears by a close examination of the lists that but seven of the thirty elective members of the board, who were members in 1852, still retain their seats.

Whether this numerical error ought to qualify our remark, our readers could better judge were we to mention the names of the members who have given way for the present board; which we shall not do, as the precise object of the parenthesis was to avoid suspicion of an invidious comparison.

We are informed on good authority, and are requested to give publicity to the statement, that Hon. George N. Briggs did not reach the Senate chamber on Thursday, until after the vote upon the appointment of Judge Loring had been taken, and could not have participated in it. If this be so, it proves an informality sufficient to invalidate the whole proceeding, since there were unquestionably seven other members absent, while thirty votes were cast; and the whole number of the board is but thirty-seven.

We observe that some statements of the vote of Thursday, represent Hon. Abbott Lawrence as having voted against the confirmation of the appointment of Judge Loring. We have the best possible authority for asserting that he voted in favor of the confirmation, as was stated in the list which we printed yesterday, and which we believe was correct throughout.

THE VOTE IN THE BOARD OF OVERSEERS.—The *Advertiser* says that Hon. George N. Briggs did not reach the Senate chamber on Thursday, until after the vote upon the appointment of Judge Lo- had been taken, and could not have partici- ated in it. If this be so, it proves an informality sufficient to invalidate the whole proceeding, since there were unquestionably seven other members absent, while thirty votes were cast; and the whole number of the board is but thirty-seven.

The *Atlas* and *Advertiser* both say that Hon. Abbott Lawrence voted for Mr. Loring. The *Atlas* understands that Ex-Gov. Briggs would have voted against him if he had been present. We do not understand the *Advertiser*, when it speaks of an informality, as insisting upon another trial.

On the subject of the fatal "info[illegible]" which the *Advertiser* speaks of, a correspondent sends us a brief communication. After quoting the *Advertiser's* paragraph, as given above, the writer goes on:

"It will be seen from the above extract, that in the opinion of the learned editor of the *Advertiser* one illegal vote will invalidate a proceeding, where there is a majority of *ten*. On the same ground, if one of the 81,000 ballots cast for Governor Gardner had been illegal, his election would have been void.

The law, as settled by the Supreme Court, is as follows:—"IT IS NOT A VALID OBJECTION TO AN ELECTION THAT ILLEGAL VOTES WERE RECEIVED, IF THEY DID NOT CHANGE THE MAJORITY." *First Parish in Sudbury vs. Stearns*, 21 *Pickering* 148. "IT IS NO OBJECTION TO AN ELECTION THAT ILLEGAL VOTES WERE RECEIVED, OR LEGAL VOTES REJECTED, UNLESS THE MAJORITY IS THEREBY CHANGED." *Blandford vs. Gibbs and Cushing*, 39.

It appears that the decision of the *Daily* differs widely from that of our Supreme Court, and this conflict produces a "distressing uncertainty" as to the true state of the law. Which shall give way?"

"JURIST."

The Atlas.

Editor of the Atlas:—Sir,—The Daily Advertiser declines to publish "entire," a communication which I sent, in reply to an attack upon me by an anonymous correspondent, partly because, as he says, it contains "revolting passages."

The Advertiser may be in the exercise of its right, as it is of its power in suppressing parts of my reply, but it should not use such an expression as "revolting," because that implies more than it has a right to say,—that the passages were immoral, or gross, in sentiment.

When a man, however humble, who values his character as a peaceful and law abiding citizen, takes publicly the ground, as I do in the article, that he will resist a law of the land, he should have the advantage of strengthening his position in every way.

This advantage the "Daily" denies to me, by suppressing part of my article: will you give it me?

Let the readers judge whether the sentiments are "revolting" to any liberal mind. Let them decide whether the editor of the Daily Advertiser acted a manly part when he admitted anonymous attacks upon me, and then, not only suppressed parts of my reply, but gratuitously stigmatized them by a scandalous epithet.

With regard to my saying that conscience bids me resist a law of the United States, I shall be told that social chaos will come again, if we allow men to plead conscience in defence of their illegal acts;—that the thief may say, conscience bade him steal rather than earn bread,—and the like.

I answer—in all doubtful cases let the law have rule: but, in morals as in physics, we must admit certain axioms; and as the race progresses, we must admit more and more of them, or else we shall never get out of chaos. Among the axioms, already admitted, are these:—That a man's life and liberty are sacred, and forfeitable only through crime. Now, as no acts or laws of government can make it right for me to *kill* an innocent man, or to aid, even indirectly, in killing him,—so they cannot make it right for me to *rob* him of his liberty, or to aid others in robbing him. Multiply act upon act,—law upon law,—still you can never change the nature of the things; they will always be murder and robbery.

But as I may not kill, or rob my neighbor, neither may I stand by and see others kill, or rob him. I may not, coward like, even pass by on the other side; and I will not. I will resist the murderer; I will resist the robber and the kidnapper; and if in so doing I resist the law, I will abide the consequences.

Will you allow space in your paper for the rejected article, and oblige Yours, S. G. HOWE.

To the Editor of the Boston Daily Advertiser:

Sir,—The "writer" who made an onslaught upon the Course of Independent Lectures on Slavery, and upon the audiences which attend them, has returned to the charge, in your paper of this morning, pointing his steel particularly at me, without, however, dropping the mask of an incognito.

He says that my letter contradicted itself several times over, but he does not show how it did so, even once.

The writer would fain make it appear that I wished to apologize, but he cannot. To whom, and for whom, and for what should I apologize? If the writer, or any one else, is vain enough to suppose that he had any right to look for an apology, I am not foolish enough to admit it.

I have shown that the "Writer" made misstatements respecting the origin and purpose of this course of lectures. He first charged that it was "got up,"—that the audiences were assembled, by Messrs. Parker and Phillips, for their own purposes, and with a view to their impending trial for an alleged offence in Faneuil Hall, and with a view to attacking the Court, and forestalling public opinion in their favor. I showed first, that those gentlemen had nothing to do with the plan of the course; second, that they could not have had any such purpose as the writer charges, since the course was all arranged *before* the alleged offence was committed.

If doing this is apologizing, then a few more similar apologies may be made in commenting upon his last communication.

He changes his position now; makes a flank movement, and attacks the committee, the lecturers, and the audience from another side. He says the lectures "have been made the instruments and the occasion of repeated and indecent attacks upon the Court, which were received by the audience with great applause."

Let it be granted, for the sake of the argument, that two lecturers did handle the Court pretty severely, and that a Boston audience of three thousand people, pretty generally applauded them; what then? Is this the fault of the committee, lecturer, and audience, or of the Court, and of persons like the "Writer," who uphold it in the position it takes, favorable to slavery and hostile to freedom? The spirit of the Court, not the personal character of the Judges, was assailed. Let us suppose a case, only one very much less atrocious than the Burns case. Suppose that Congress had passed a law authorizing the impressment of seamen. Suppose that a course of lectures was arranged upon the subject of service on shipboard, sailors' rights, &c.; and that the "Writer" was one of the lecturers invited. After the course is arranged, down comes a press gang, seizes upon a young man, one of a most respectable family, one of the Quintii for instance. The people are in tumult; they assemble in Faneuil Hall; the elder and eloquent Quintii address them; and even incite them to opposition to this cruel law—encouraging them to rescue the young man. But the press gang hale their captive before a press gang commissioner, who is "judge" for that special service, and he declares that the law must be obeyed—that the young man may be carried off by force, and made to serve five years, perhaps for life, before the mast, in a man-of-war. Then a higher tribunal arrests the elder Quintii for treason, and they are bound over for trial. Now would not the writer, when he came to lecture, naturally allude to press gangs, and be severe upon the Court, which interpreted doubtful laws in favor of the press gang, which entertained complaints against those who resisted press gangs, and held them to trial for treasonable offences; and would not the audience applaud his severity, and say, go on,—give it to them! I trow, yea.

Well, was not poor Burns equal in the sight of God to the greatest of the Quintii; was he not equally entitled to his liberty? nay, was he not more fully entitled to it, since he had struck a brave blow to win it, and they had only enjoyed it?

The writer says Dr. Howe "admits that attacks has been made upon the court, and justifies it." Stop! I did not admit that the Court had been assailed "grossly, violently and in an indecent manner;" as the "Writer" charged, and I would not justify such assault.

With the above explanation and illustration, I do admit that the U. S. Courts have been pretty freely criticized; and the spirit which animates some of the Judges ver[illegible]verely condemned. Most certainly I justify this. I [illegible]d, however, that the severest and most dangerous attacks upon the Court have been made by Judges themselves, here and elsewhere in the United States. The Courts are but instrumentalities of the people. If the people begin to feel that conscience should be absolute and supreme, and law relative and subordinate, and the Courts continue to decree that law must be absolute and supreme, and conscience relative and subordinate, the people will demand better instrumentalities, and that soon. If Courts continue to be so administered as to admit the binding force of enactments of Government which outrage the feelings and shock the conscience and natural humanity of the people, then the Courts will be revolutionized, and the Judge become the mere Chairman, to keep order, while twelve good men and true pronounce upon the law and the facts.

I am free to confess that I am not alarmed by this prospect. Indeed, I can conceive many cases besides that of fugitive slaves, in which a man's freedom and right would be safer if committed to "God and the country," than to commissioners and judges.

The writer askes whether it was not known, when Mr. Wendell Phillips was invited to lecture, that he cared for neither Union nor Constitution, and was in the habit of denouncing both?

Most certainly it was known. He was invited because he is representative of the class of men who advocate a particular mode of getting rid of the criminality of participation in the national sin of slavery, to wit: by abruptly dissolving a partnership—a Union, by which alone the system can be upheld and continued.

The committee did not make themselves responsible for Mr. Phillips, or any other lecturer, on the mode of treating the subject; they left to each one the responsibility, and the audience could applaud or condemn.

The committee do not endorse Mr. Phillips's doctrine; though, for one, I am free to say, that unless there is soon to be a change in the national policy—if this Union is to be a Union for upholding, extending, and perpetuating slavery, instead of freedom, then I go for the quickest and most effectual way of breaking it up

What! is the Constitution a Divine Revelation, that we may not doubt its holiness? Has it not, rather, been transformed, by juggling politicians, into a horrible Fetish, demanding human sacrifices, which we are required to aid in offering up? Were we not yesterday hunting down one of the poor victims to be sacrificed to this Fetish?

The writer says: "Now inasmuch as we of Massachusetts have abolished African slavery within our own limits, it is plain that we can have no participation, direct or indirect, in slavery elsewhere, except through the Constitution of the United States. It is to quicken our consciences against the provisions of the Constitution, therefore, that Dr. H. and his Committee got up these lectures."

I admit the conclusion, but reject the premises, as false and mocking in their spirit.

Massachusetts has not effectually "abolished African Slavery" in her limits. Part of African Slavery is the *enslavement of Africans;* and whether they are caught in Congo and clapped into barracoons, or caught in Court street and clapped into a Court House, it is still the enslavement of Africans.

Massachusetts,—Boston, *has* "participation" both direct and indirect, in Slavery; and it is precisely because the "Writer," and others of his way of thinking, do not see, or do not care for the sin of this "participation," that such a course of lectures is desirable.

Slavery rests upon the impious doctrine that MAN CAN BE LEGALLY CHATTELISED; that one man can own another man; can buy, sell and work his brother man, as though he were an ox or an ass; and wherever this infernal doctrine is not openly repudiated, condemned, scorned, and spit upon, there and there only, can slavery find support. Massachusetts admits the doctrine; or, at least, Boston admits it; for men are here seized under cover of it, and are sent into slavery under cover of it, by Commissioners holding Judgeships; and when Christian people rise up, and cry out, "this is a horrible doctrine, we will not let a poor fugitive be sacrificed to it,"—then the Mayor and the police, and the military, turn out, and say practically,—"it is good doctrine;" "Great is slavery;—the victim must be offered up, though the streets run with blood!"

The slave trade! what is it but the buying and selling of men? and is not this not done here? Why! only a day or two ago, one of our citizens, eminent as a merchant, and as a humane man, published in your very paper, an account of his attempt to buy a slave, in order to free him, and gave the name of the "writer," perhaps, as one of those who joined in the attempt. Doubtless they acted from good motives; but it is just as doubtless, that if the slave hunter had found his victim in Boston of old England, instead of Boston of New England, his proposal to sell a human being would have been scouted as absurd and impious; and if he had attempted to take him away by force, the Mayor, police, and militia, if necessary, would have turned out to protect the slave, and to support freedom just as promptly as ours turned out to protect the slave hunter, and support slavery.

The "writer" affirms that he did not misrepresent the lecturers, or the audience; and he quotes from several newspapers reports in support of his censures. Granted,—that some things struck off in the heat of illustration were offensive to good taste, and that reporters are generally pretty good authority; nevertheless, the reporters of the Boston press do not generally attend lectures on Slavery with a view to commend its opponents. However, the very authorities which the writer quotes, the Courier and Traveller, say that the audience applauded Mr. Phillips's "exquisite felicity of manner," rather than his matter.

The writer himself quotes from the Traveller these words:—"Mr. Phillips boldly ventured to say things, which from a less golden mouth would have been met by the audience that enthusiastically applauded, with hisses, &c.

The Courier bears similar testimony, and out of its mouth is the "writer" condemned.

The "writer" returns to his misrepresentation of Mr. [illegible] and attempts to justify himself, but, unfortunately for him, he quotes Clay's last words, which [illegible]arm my interpretation and refute that of the writer." "We must fight sir, we must struggle with this piratical crew, and take possession of the good old ship, and correct those evils which now exist."

Can any one but the "writer" fail to see that Mr. Clay's "fight" would be only a political one; his weapon the ballot box; the old ship the Government, the evils of which he would correct? "It savors *not* a little of the ridiculous" to call this "*fighting*," in the sense to which the writer would distort it.

With regard to this same matter, Mr. Clay asked, who would help "*bell the cat*," [not "*bell the cow*," as the "writer" misquotes him]. Now, is even the "writer" so devoid of imagination, as to suppose that

Mr. Clay meant literally that some one must seize pussy, claws, teeth and all, and clap a bell on her neck? If he is, then I yield the point of controversy.

Finally, the writer thinks he has me on the hip, when he asserts that the Court merely charged that he who incites others to commit an offence is a participator in the offence; and asks, triumphantly, "does Dr. Howe deny either that this principle is good law, or good morality?" But here is the very gist of the whole matter. Offence against whom? against what? Does interfering to hinder and prevent a slave hunter from carrying off into bondage a free and innocent man, from our very streets, constitute an offence against "good law or good morality?" Some Courts, some Judges, and perhaps the "writer," say yes! but God, speaking through Jesus Christ, and through the unperverted sentiments of humanity, says no!—but, do unto thy brother as thou wouldest he should do unto thee; and, so help me God, I will!

I speak not for the Committee, but for myself alone, and say that by every manly means will I resist the re-enslavement of any fugitive that may be attempted here. By legal means, if possible; if not, then by all other means that are just; by exciting my fellow townsmen to resist; by resisting myself; by barring the passage with my body; by such other means as the courage and presence of mind left to me in the crisis may suggest as available against any but overwhelming force.

I would not have said this before Courts and Commissioners showed themselves the ready tools for enforcing a barbarous enactment, which no legislation can ever transform into binding law. I would not have said it before it was manifest that the hunted fugitive, who cried to us for protection, could not be shielded by the law; but I say it now, and deliberately.

This is my answer to the "writer's" taunting question, whether "Dr. Howe's not tamely submitting to law is merely a form of expression, or does it mean what it seems to imply?" It means what it seems to imply; let the "writer" make treason of it, if he will.

Whoever else may throw a stone at me, an advocate of peace, for resisting law, let not those begin who approve of ordering out horse, foot, artillery and armed police, to "keep the peace," by upholding a kidnapper, while I would keep it by knocking him down, if necessary; because their way will surely cause more bitterness and blood than mine would, before this horrible business can be ended.

The "Writer" discharges this arrow at me as he flies:—"When Dr. Howe undertakes to criticize, he does need to keep the truth on his side." The writer should attribute to me, as I do to him, every disposition to do so; though he may not see, as the world does, that one who writes under his own name, is more likely "to keep the truth on his side," than one who attacks people's motives and character under the mask of an incognito. S. G. HOWE.

☞At the request of the junior editor of the Advertiser, we publish in connection with Dr. Howe's letter, the following extracts from the article in that paper. We do not admit any claim upon us to do so, but are willing to grant the request.

[From the Boston Daily Advertiser of Thursday.]

Anti-Slavery Excitement.—We received on Tuesday another letter from Dr. S. G. Howe, which we print in another part of this morning's paper, omitting, however, some portions, which do not appear to us material to the reply, and to which we do not feel called upon to give publicity. The omissions are whole sentences, and the places where they are made are indicated by stars. An additional reason for curtailing the letter in this way has been the saving of space in our crowded columns.

We are very well aware that there will be complaint that we have not printed the letter in full, as also there will be complaint that we have printed so much of it. It is quite likely that some other journal may be found ready to print the whole, and to raise a cry against us for unfairness, and suppression, and so forth. But that the principle upon which we have acted is correct, no editor or other intelligent person can deny. It is doubtless true that a gentleman whose name has been mentioned in a public print in connexion with alleged facts which he does not admit to exist, or opinions which he disowns, has a right, under certain restrictions, to the use of the columns of the same print, to a reasonable extent of space, for the purpose of stating his denial of the facts and his disavowal of the opinions. But this gives him no privilege to use those columns at the same time for the advocacy of opinions contrary to those entertained by the conductors of the journal, and known to be disagreeable to most of its readers. Moreover the editor, and not his correspondent, must be the judge of what parts of the article are legitimate reply, and what are extraneous matter; and he not only may omit the latter, but he owes it to his character as a public journalist to do so, lest his paper become the vehicle for disseminating opinions which he believes unsound.

It is quite possible that the correctness of these principles may be called in question in their application in the present instance; but a little reflection will show that no journal could preserve a consistent character unless conducted with regard to them; else it would become in turn the organ of the views of each of its correspondents.

[The article in the Advertiser proceeds to argue the uselessness of anti-slavery discussion in the excited state of public feeling at the present time, and at its close the following note is appended:]

At Dr. Howe's request, he was furnished with a proof-sheet of his communication, a privilege accorded in rare cases, as a matter of courtesy, and a matter causing us a good deal of inconvenience. At a late hour last night the proof-sheet was returned, corrected, accompanied by a note from Dr. Howe, requesting that we should not print his letter unless we print it entire. There are some revolting passages in the letter which we would on account permit to appear in our columns; and we accordingly have only the alternative to print the letter with omissions, as we had prepared it,—or to comply with Dr. Howe's last request, and not print it at all. The brief space allowed us for deliberation has resulted in our deciding upon the latter course; and the letter, although in type and ready for publication, accordingly does not appear. We print our own article above, precisely as it stood before receiving this late note.

Judge Loring's Case.—The advocates of the removal of Judge Loring deny the analogy between his case and that of the judges of the Supreme Judicial Court, whose removal from their seats nobody has yet had the hardihood to propose. But, in truth, it is difficult to point out where is the difference, unless it be in the favor of Judge Loring. The judges of the Supreme Judicial Court have unanimously affirmed that the fugitive slave law passed by Congress in 1850 is a constitutional act; and in reference to the matter of slavery have declared that all judges and magistrates ought to expound and apply the provisions of the

constitution of the United States in the same spirit of conciliation and harmony which prevailed in its establishment. Judge Loring, like other public officers, necessarily took an oath to support the Constitution of the United States before he could enter upon the duties of his office of Judge of Probate. He acted in the Burns case in honesty and good faith, in accordance with the injunctions of our own Supreme Court. Now, if he be guilty for his services in that case, then are the higher judges guilty who have declared that the law requiring those services is constitutional.

Three o'clock this afternoon is the time appointed for a hearing at the State House before the Committee on Federal Relations, which consists of Messrs. Albee of Middlesex and Peirce of Norfolk, on the part of the Senate, and Messrs. Stone of Boston, Knowles of Eastham, Devereux of Salem, Warner of Northampton, and Gould of Falmouth on the part of the House. It has been stated (we know not how correctly) that Messrs. John A. Andrew, A. B. Ely, Wendell Phillips, Seth Webb Jr., and E. M. Wright will appear in behalf of the petitioners for the removal; and Sidney Bartlett, George T. Curtis and Richard H. Dana Jr., on the other side. The Evening Telegraph says:—

Mr. Dana, we understand, has expressed an intention to appear before the committee, but not in defence of Judge Loring, *per se* (as Mr. Tyler would say) still less in conjunction with Mr. Geo. T. Curtis. If, in fact, he addresses the committee at all, it will not be in a professional capacity, but as a citizen, who fears that the contemplated removal would be a dangerous blow at the independence and rights of the judiciary.

Mr. Dana, as is well known, holds extremely conservative and undemocratic notions on the subject of the judiciary, and his dread of popular intermeddling with that branch of the government, will probably in this instance overmaster his anti-slavery sympathies, and lead him to throw the weight of his character, talents and learning, against the petitioners for the removal of Judge Loring.

We sincerely regret that Mr. Dana's extreme conservatism compels him to take this course, while we cannot but respect the manly independence with which he follows his own convictions regardless of popular feeling, of his own sympathies, and even of the company in which he will find himself at the State House. If to his exertions Judge Loring shall owe his continuance in office, it is to be hoped that that functionary and his friends will be duly grateful for the assistance.

We are glad to find that the Telegraph can respect in Mr. Dana the "manly independence with which he follows his own convictions, regardless of popular feeling, of his own sympathies," &c. If such independence be commendable in an *advocate*, how much more so is it in a *judge!*

THE CASE OF JUDGE LORING.

[Reported for the Boston Daily Advertiser.]

A public hearing of the petitioners for the removal of Hon. EDWARD G. LORING from the office of Judge of Probate, took place yesterday afternoon in the Representatives' Chamber, before the Legislative Committee on Federal Relations. Long before the hour appointed for the hearing, the hall and galleries were crowded with people, a small proportion of the audience being ladies.

At three o'clock, the Chairman, Mr. ALBEE of the Senate, called the committee to order, and stated that the object of the committee was to hear both the petitioners and the remonstrants. The following letter from Judge Loring in reply to a notice inviting him to appear, had been laid before the committee :—

To the Joint Standing Committee on Federal Relations:—

Gentlemen,—I have the honor of acknowledging the receipt of notice to attend a hearing before you, upon the petitions for my removal from office, on Tuesday afternoon, Feb. 20th, in the Representatives' Hall, at 3 o'clock.

In fulfilment of the duty imposed on me by my official position as a judicial officer of Massachusetts, as well as in justice to myself, I submitted on the 10th day of February, to the Honorable the Senate and House of Representatives, a remonstrance and protest, containing a statement of the facts and circumstances of my action in the matter to which the petitions refer. That document has been referred to you. I do not know that I can add to it, and therefore I avail myself of the opportunity which your notice affords me, respectfully to recal your attention to that statement, and request of the Committee such consideration of its facts and reasonings, as in their judgement they may deserve, or the occasion may prescribe; and I submit, in view of them, that my acts present no case for the exercise of the extreme and peculiar power of removal, as the same has been universally expounded and administered, in all American constitutions; and that conformity to the constitution and the laws of the United States is not a reason for withdrawing from a judicial officer that security which the constitution of Massachusetts assures to him "*during good behavior.*"

I have the honor to be very respectfully,

Your obedient servant,

EDWARD G. LORING,

Judge of Probate in and for the County of Suffolk.

BOSTON, Feb. 19, 1855.

Mr. Seth Webb, Jr., for the petitioners, spoke first, and gave the reasons for removing Judge Loring as follows :—A great act of public infamy had been done in Massachusetts, by the return of Anthony Burns to slavery. The people are in earnest to know who did it, and to pass their verdict on its perpetrators. There was a man, who was more than any other responsible for it, and that man was Judge Loring. He has defied us in his remonstrance, by saying virtually that he will continue to be both a judge and a fugitive slave law commissioner, as long as the people will allow him to do so. We ask for his removal from the office of Judge. It is not a personal matter, but a question of Massachusetts honor. Let him resign his office as Commissioner, and repent of what he has done, and we will withdraw our petitions; but so long as he maintains his present defiant attitude, we ask his removal.—And in behalf of the petitioners, he submitted the following reasons why Judge Loring should be removed from office:

1. The legislature has the right to address the Executive for the removal of a judge whenever in its judgment such removal is demanded by the interests, the public semtiment, or the honor of Massachusetts.

2. The Judge of Probate for Suffolk County ought to be removed because in acting as a Commissioner under the fugitive slave act, he outraged the just and solemn convictions of the people of Massachusetts, whose judicial servant he was, and committed a deed infamous in the eyes of the civilized world.

3. In the Burns case, Judge Loring wrested the laws to the support of injustice, tortured evidence to help the strong against the weak, prejudged a fellow creature whom he found in possession of freedom into unending bondage, and throughout the case administered a merciless statute in a merciless spirit.

4. He should be removed because he holds two offices, incompatible with each other according to the the theory of our institutions, and the spirit both of the Constitution of the United States and the Constitution and laws of Massachusetts, and because he avows his intention of defying public sentiment and acting in both offices as long as he is permitted.

Mr. Wendell Phillips was the next speaker. He said the petitions were not all in the same form, which showed that they were not from the dictation of any Committee, but from the spontaneous impulse of the people. It was also note-worthy that women were among the petitioners; this, he thought, was becoming, because the Judge of Probate, in his duties, has much to do with women and children. He said, that it was because the petitioners reverenced the office of Judge, that they asked Judge Loring's removal; and he thought he might ask it in behalf of the character of the whole Judiciary of the State.

He said, judges may be removed by impeachment, and by removal on address of the legislature. We do not ask you to impeach Judge Loring, for he has not violated the law in his official capacity. But we do ask you to secure his removal by an address of both houses of the legislature. His remonstrance is based on the principle that his removal would be a hard proceeding, because he has not violated the law. But the removal by address does not require a violation of law. What he says amounts to this only, that he cannot be indicted or impeached. If he had violated the law, he could be indicted or impeached, and we should not appear before you for his removal by address. But there may be reasons for removing a judge who has not been guilty of violating the law, or of mal-administration, and for such cases, the constitutional method of removal by address was provided.

It has been suggested that Judge Loring and his friends will deny the power of the legislature to remove him. He virtually denies it in his remonstrance. I will show that the legislature has an unlimited, complete, and sovereign power to remove him.

Mr. Phillips then read passages from the report of a committee on this subject in the constitutional convention of 1820; gave an account of the discussion of this report, and read extracts from the speeches of eminent gentlemen who participated in the debate: the object being to show that all of them admitted that the Constitution as it stands does give the legislature this unlimited power of removal, that this power is in accordance with the bill of rights, and that there should be a provision for removing judges for other causes than violation of law or misconduct in office.

Mr. Phillips insisted that there could be no doubt of the power of the legislature to remove a judge by address; he would next proceed to show that Judge Loring ought to be removed, and gave his reasons in substance as follows:—

1. Judge Loring has violated and outraged the will of the people of the Commonwealth, officially expressed. The State declared in 1843, by an act of the legislature, that no Judge of any court of record, or other officer, shall aid in returning fugitive slaves. This act, it is true, only covered the fugitive law of 1793; but in spirit it covers that of 1850. He violated the spirit of this law of the State when he engaged in the business of returning the fugitive. The spirit of that law forbade him to hold the office of Commissioner, after accepting that of Judge of Probate; his acting as Commissioner is defiance of the Commonwealth.

2. His method of conducting the trial of Anthony Burns shows that he is unfit to be a Judge. Mr. P. said the man was arrested secretly and fraudulently, and would have been summarily condemned, if certain gentlemen had not accidentally heard of what was going on. He quoted what took place between Messrs. Dana and Ellis and the Court, to make it appear that Judge Loring was disposed to hurry the matter to a conclusion, and then said that he needed to have honest men come into his court room and protest against his method of proceeding. He then urged that Judge L. should not be trusted as Judge of Probate. Mr. Phillips referred to various particulars of the trial to show the same thing; one particular was, that very soon after the trial of Burns commenced, Judge Loring said to him (Mr. P.) that the man would probably be sent back, the case was so clear; another that before the decision, he took the ground that Burns was a slave, by drawing a bill of sale for his manumission; another that twenty hours before announcing his decision publicly, and before allowing the man's counsel to know what it would be, he secretly made it known to B. F. Hallett and others in the interest of the claimant.

3. The principles of Judge L.'s decision in the Burns case show him to be unfit to be a judge. One whom we never saw before, and of whom we know nothing, testified that the man before the commissioner ran away on the 24th of March; seven or eight citizens of Boston swore that they saw the man here three weeks before that time. Now either the man was not the one of whom they were in pursuit, or their record was wrong. Well, Judge Loring took what was given as the confession of Burns. But in that confession Burns denied that he ran away, and of course, according to a legal decision, was not a fugitive. Judge Loring did not allow him to have the law of Massachusetts, but decided everything against him.

In conclusion Mr. P. urged that if the fugitive slave law is to be executed in Massachusetts, she may at least say, that her magistrates shall not participate in the business; that she had already said so; and that the present legislature should stereotype this declaration.

Mr. C. M. Ellis followed Mr. Phillips. He said that it was accidently that he learned that Anthony Burns had been arrested and taken before the Commissioner. He said it was the unbiassed opinion of the jurists of the state that the legislature had the power of removal. He thought it should not be exercised causelessly. He said that Judge Loring in his remonstrance seemed to claim a right to his office; but such a claim is not recognized by the constitution. He then urged that the present case was one which demanded an exercise of the power of removal. He almost regretted to see this issue made up. But

HEARING IN JUDGE LORING'S CASE.—The Representatives' Chamber in the State House was crowded yesterday with listeners and spectators at the hearing before the Committee on Federal Relations in the case of the petitions for the removal of Edward G. Loring from his office of Judge of Probate. We give in another part of this morning's paper as full a report of the proceedings as our limits will allow, which will serve to give our readers an idea of their nature.

Three gentlemen appeared and made arguments in support of the prayer of the petitioners, viz., Messrs. Seth Webb, Jr., Wendell Phillips, and Charles Mayo Ellis. There was no appearance of counsel on the side of Judge Loring, nor any other representation in his behalf than a brief letter from him couched in the most respectful language acknowledging the invitation of the committee to him to appear, and calling their attention to his remonstrance already in their possession. This letter will be found at length in our report. We are inclined to think that the names of counsel reported as about to appear on each side were wholly incorrect. Besides the mistakes already noticed, we learn on the best authority that Hon. E. M. Wright, the Secretary of the Commonwealth, reported as about to appear before the committee in behalf of the petitioners, has no intention whatever of doing so.

From the fact that the hearing was held in the large hall of the House of Representatives, in the presence of a numerous audience, it is obvious that it was not intended by the committee as an occasion for deliberation or for the presentation of evidence, but rather for passionate declamation. This mode of proceedure may have been required by the circumstances, but we trust that the members of the committee will take an opportunity before rendering their report to consider the subject calmly in all its bearings. They will not fail to consider whether the removal of a judge for no misbehavior will not strike a blow at the independenc of the judiciary, which if repeated will shatter the whole fabric of our republi can institutions.

When we on Friday morning stated anew some of the reasons why Mr. E. G. Loring should not be honored with the appointment of Professor in the Law School attached to Harvard College, we had not a suspicion that the question had already been settled, and that we were performing a work of supererogation. So it proves, however. On Thursday afternoon Mr. Loring was rejected by the Board of Overseers—not, we trust, like the notorious Bowen, to creep in again, at some future aperture, but definitely and decidedly. This is a wholesome and encouraging event. It expresses, in a way not to be misunderstood, the opinion of Massachusetts on the business of negro-catching, and declares that henceforth no individual engaging in that nefarious work, no matter under what pretenses, or amid what circumstances, shall receive any public trust, on which her people can put a veto. We rejoice at such a declaration of public sentiment. It does not come a day too soon, and we trust it will have its due influence in other States. The slave-catcher and the Slave Commissioner must be made to feel that they lie under the ban of general loathing, something like that which, in the middle ages, rested on the professional hangman and torturer. It is urged, as an apology, that the law requires such creatures, but it cannot require anybody to respect them. Ministers, not of justice, but of inhumanity—tools of the basest cupidity, that which seeks to steal the liberty and labor of men—they voluntarily perform a function the most revolting that can be conceived. They should be regarded as social outcasts—persons afflicted with a moral contagion—degraded beyond fitness for the association of decent people. We congratulate the citizens of Massachusetts that something of this sentiment has found manifestation in the rejection of Loring.

Slave Law Commissioners.

TEXT.

"The duty of Commissioners of the Circuit Courts of the United States, under the U. S. Act of 1850, is imperative upon them; for, by the terms of the act, they are not merely authorized, but they were expressly 'required' to exercise and discharge all the powers and duties conferred by that act."—*Edward G. Loring's Remonstrance to the Legislature.*

IMPROVEMENT.

To the Judges of the Circuit District Court, U. S. District, Illinois:

Being unwilling to act in enforcing the provisions of the Fugitive Slave Law, I hereby resign the office of United States Commissioner, for a long time held by me under your appointment.

Respectfully, your obedient servant,

Chicago, Jan. 29, 1855. GEO. W MEEKER.

TEXT.

Edward G. Loring was qualified as a Justice of the Peace, March 6, 1843.

IMPROVEMENT.

"Any Justice of the Peace, Sheriff, Deputy Sheriff, Coroner, Constable or Jailor, who shall offend against the provisions of this law, or in any way acting directly or indirectly under the power conferred by the third section of the Act of Congress before mentioned, [the Fugitive Slave Law of 1793,] shall forfeit a sum not exceeding one thousand dollars for such offence, to the use of the county where such offence is committed, or shall be subject to imprisonment not exceeding one year in the county jail."—*From "an Act further to protect personal Liberty," passed in Massachusetts, March* 24, 1843.

The *Congregationalist* has a very able article upon the case of Judge Loring. It briefly reviews the Burns case, and gives the sum and substance of Judge Loring's remonstrance, and then argues at length in favor of his removal. We give an extract or two :

"A great many things are strictly legal which the people of Massachusetts—as a matter of taste—prefer that their Judges of Probate should not do. The conduct of Judas—if we have correctly informed ourselves as to its legal bearings toward the then lawful government of Palestine—was entirely constitutional and civilly correct, yet it hardly follows that he would therefore have been an agreeable man for a guardian of widows and orphans. The conduct of Mr. Asa O. Butman—one of Judge Loring's associates in this particular transaction—was eminently legal. His views and those of the Judge seem to have delightfully harmonized as to their national responsibilities. Yet we rather suppose the people of Suffolk would not look upon him as their first choice for Probate Judge. In proving then that his conduct was legally correct, Mr. Loring has labored upon an unnecessary because conceded point. The moral and æsthetic view of the subject does not seem to have dawned upon his mind. One would think, from his plea, that the only question which a gentleman should ever ask concerning a proposed course of action would be, is it legal ?"

The *Congregationalist* goes on to show the "false logic" of Judge Loring in his attempt to prove that there was no escape from the duty of acting as Commissioner in the Burns case, because if he could refuse to act, or could resign, all others might do the same, and so the constitution would be violated. The article closes, expressing an earnest desire that both branches of the legislature will unite in the constitutional address to the Governor and Council for the purpose of Judge Loring's removal, and says :—

"That loud voice of public condemnation whose first notes were uttered by our friend J. B. Whitmore, of the Boylston market—a consistent, intelligent, and worthy member of one of our churches—when he refused to sell Judge Loring the material of a roast pig upon the day after the extradition, has now gained utterance from the Overseers of Harvard College in their decided rejection of the re-nomination of the Judge as Law Lecturer at the University. It remains for it to find even more emphatic enunciation from the lips of the Legislature, and the executive authority."

Evening Telegraph.

Boston, Friday, Feb. 16, 1855.

Topics of the Day.

The Board of Overseers of Harvard College met in the Senate Chamber yesterday. A report of their proceedings may be found on the first page. The most important transaction was the rejection of the nomination of Edward G. Loring, for the office of Lecturer in the Law School, by the decisive vote of 20 yeas to 10 nays.

We learn that a remonstrance against the removal of Judge Loring is in circulation, but not numerously signed. It includes the name of Edward Everett, and also some wealthy individuals.

The Rejection of Edward G. Loring.

The vote of the Board of Overseers of Harvard College, by which Edward G. Loring's nomination, as Lecturer in the Law School, was rejected, is an important event, and will have a marked and salutary effect upon the country. Judge Loring was rejected because he sent Anthony Burns into slavery; not merely because he acted as Commissioner and executed the law against fugitives, but because he showed an "alacrity" in the business, and exhibited a reckless disregard of law, as well as of the public opinion of the community in which he lived. In his remonstrance against being removed from the office of Judge of Probate, Judge Loring endeavors to make it appear that he had no alternative. He says in substance that he was *compelled* to grant a warrant, and to act in the case. Vain pretence! No man is *compelled* to do such a service. Resignation of his office was a course open to him, and the great interests of the Union and of slave-catching could not have suffered, for Mr. George T. Curtis, at this very time, was advertising his willingness to act in such cases. Mr. Hayes, a police officer, who was ordered by Mayor Smith to perform a degrading duty, resigned his office, and all respectable men applauded him for doing so. The public service did not suffer either, for in the "sacred legion," consecrated and set apart, like Fourier's, to do the dirty work, there will always be plenty of volunteers. Mr. Loring's chief offence is that he exhibited "alacrity" in the business, and that his decision was contrary to the law and the facts of the case.

The Daily *Advertiser* indulges in some sneers towards the twenty members who voted against the nomination of Judge Loring. "Such statesmen as Henry J. Gardner," and "such jurists as Thomas Russell," it thinks ought not to presume to criticise an appointment made by Judge Shaw and Charles G. Loring, recommended by Joel Parker and Theophilus Parsons, and approved of by Emory Washburn, Robert C. Winthrop and John H. Clifford. Such sneers at the majority of the Board are in very bad taste. High in the public estimation as are Messrs. Shaw, Loring, Parker, Parsons, Winthrop, Clifford and Washburn, we are not aware that they embody in themselves any more moral or intellectual strength than the men who saw fit to vote in opposition to their opinion. It is not necessary, in order to vindicate the action of the Board, and if it were necessary it would not be proper or just, to cast any reproach upon the character of the minority. They are men of high character, whose opinion must be held in great respect, but they are no more than equals of the other members of the Board. And in this case their judgment happens not to square with the opinion of a majority of the people of the State who, beyond all doubt, were opposed to the confirmation of Judge Loring.

We give below, from the *Advertiser*, a statement of the *supposed* vote of the Board. As the vote was by ballot, is is impossible to ascertain with absolute certainty how all the members voted, but the statement is pretty nearly correct. We think, however, that Mr. Bradford voted to confirm the nomination. And we have heard it suggested that Hon. Abbott Lawrence, who is placed in the list below as among those who voted yea, did actually vote on the other side.

Of those members who were absent, we have little hesitation in saying that Rev. Baron Stow, Hon. Julius Rockwell, and Judge Fletcher, (men, as the *Advertiser* will admit of the highest character and respectability) would have voted against the nomination.

Here is the *Advertiser's* statement :

The following members are known to have been *absent* yesterday :

Hon. Caleb Cushing,
Rev. Baron Stow, D. D.,
Hon. David Sears,
Hon. Marcus Morton, (ex-Governor),
Rev. Samuel M. Worcester, D. D.,
Hon. Julius Rockwell,
Hon. Richard Fletcher—7.

The following members are believed to have voted *yea*, (in favor of confirming the nomination):

Hon. Emery Washburn (ex-Governor,)
Hon. John H Clifford, (ex-Governor),
Hon. Abbott Lawrence,
Hon. Robert C. Winthrop,
Hon. Reuben A. Chapman, of Springfield,
Rev. Ezra S. Gannett, D. D.,
Rev. George W. Blagden, D. D.,
Rev. Thomas Worcester.
Rev. James Walker, D. D., (President of the College).
William T. Andrews, (Treasurer of the College)—10.

The following members are believed to have voted *nay* (against confirming the nomination):—

Hon. Henry J. Gardner (Governor),
Hon. Simon Brown, (Lieutenant Governor),
Hon. Henry W. Benchley (President of the Senate),
Hon. Daniel C. Eddy (Speaker of the House),
Rev. Barnas Sears, D. D. (Secretary of the Board of Education),
Hon. George N. Briggs (Ex-Governor),
Hon. George S. Boutwell (Ex-Governor),
Hon. Samuel Hoar of Concord,
Hon. Samuel D. Bradford,
Hon Francis Bassett,
Hon. George Morey,
Hon. Joel Hayden of Williamsburg.
Hon. Thomas Russell (Judge Boston Police Court),
Hon. Daniel W. Alvord of Greenfield,
Rev. Hosea Ballou, 2d, D. D.,
Rev. Rodney A. Miller,
Rev. J. H. Twombly,
Rev. Nathaniel Cogswell,
H. B. Wheelwright,
Nathaniel B. Shurtleff—20.

Removal of Judge Loring.

On Wednesday a petition was presented to the Legislature, for the removal of Edward G. Loring from the office of Judge of Probate for this county. We suppose that this petition will be followed by others of the same kind. The reason for this request, is that Mr. Loring holds the office of Commissioner under the U. S. Government, and in that capacity has seen fit to execute a statute which is considered by the people of Massachusetts to be unconstitutional, unjust, and inhuman, by sending into hopeless and perpetual slavery an innocent man, named Anthony Burns, who had fled from servitude to this State. It is not necessary to examine into the Burns case, and to exhibit the alacrity which Judge Loring showed in the exercise of his function as Commissioner. It is not necessary even to inquire whether he was or was not "conscientious," and bound by his oath of office to do what he did. It is enough that the opinion of this State on the subject of the Fugitive Slave Act is such as to render it altogether improper that one of her Judges of Probate, the guardian of all the widows and orphans of Suffolk county, should also be engaged in the business of restoring fugitives. It is in accordance with the fitness of things that the men who do this wicked work shall be set apart, and not allowed to do the State's work.

The power of removing a Judge by address of the two branches of the Legislature, was granted to be used in just such cases as this. The Constitution says:

"All Judicial officers, duly appointed, commissioned and sworn, shall hold their offices during good behavior, excepting such concerning whom there is a different provision made in this Constitution: *provided, nevertheless, the Governor, with consent of the Council* MAY REMOVE THEM UPON THE ADDRESS OF BOTH HOUSES OF THE LEGISLATURE."

This provision was adopted in order that judicial officers who had not been guilty of any offence which rendered impeachment a proper remedy, but who had nevertheless by reason of incapacity, intellectual or moral, become unfit for office, might be got rid of. A case probably never will occur in which this legislative rebuke will be more proper and necessary. If it is true that the State is obliged to submit to the periodical inflictions of Southern slaveholders, and is unable to make any law for the protection of fugitives without being liable to the charge of nullification, here at least is a case in which she can do something for her own *honor*, without being in any degree amenable to that accusation. She has a right at least to say that her own officers shall not be the agents of slave-catchers. She may say to Mr. Loring, without even any necessary impeachment of his integrity as a man or as a Judge, what Othello says to Cassio—

"Cassio, I love thee,
But never more be officer of mine."

The removal of Judge Loring would have the most salutary effect upon the people of the country, and especially upon the people of the State. It would be *the judgment of Massachusetts against slave-catching and the fugitive slave act*, and every man in public office or in private station would take notice and warning by it. A personal liberty bill may be and ought to be passed, but the efficiency of it depends wholly upon the state of public opinion for the time being. The law which we now have, was violated in almost every line during the Union-saving excitement which prevailed at the time of the return of Sims to slavery. By the removal of a Judge of Probate from office because he has allowed himself to be the instrument of the Government for reducing a fellow man to bondage, would be an act not to be recalled; forever to be remembered as a great act of popular judgment against a most inhuman statute. We hope that anti-slavery men will do this act *first*; expend all their energies upon it, and *afterwards* if they can, let them place upon the statute book new securities for the rights of citizens.

The Springfield *Republican* is in error when it says that an address to the Governor from "two-thirds of the Legislature," is necessary. We have quoted what the Constitution says on this point The action of both houses, by a majority, is sufficient.

We shall have something to say in a few days in relation to the proposition of Harvard College to re-appoint Judge Loring to the office of law-lecturer.

The Republican.

SPRINGFIELD, MASS.
TUESDAY MORNING, FEBRUARY 20.

THE REMOVAL OF JUDGE LORING.

(From a Letter to the Republican.)

"If Judge Loring was corrupt or willful, and by that I mean, if he decided against his own opinion of what was right, then let him be charged with corruption. But he was not corrupt or willful. Nobody pretends that he was. Everybody

believes that he was honest and sincere. He really thought that, according to the constitution, and the laws, and the evidence before him, it was his duty to decide that the negro should be sent back.

"Now what are we coming to? Is a judge to decide according to law, or according to popular sentiment?

"He was a commissioner before he was judge of probate. While a commissioner he was made judge. There was nothing in the law, and there was nothing in any understanding, express or implied, or in any expectation by any human person, requiring him to resign the one on the acccptance of the other. The law permitted, and everybody expeeted, him to hold both. Being a commissioner, he is liable to be called on to act in slave eases: being called on, he is *by law* required to act; acting, he is bound to act according to law, and to decide according to law. He cannot legally refuse to act, or refuse to send back the nigger when the case is made out.

"Now we must not remove a man, even from the very office in which he has acted, for acting honestly, though mistakenly. We want our judges to be as impartial and independent as the lot of humanity will permit. We want them to resist the influenee of popular sentiment; and to decide according to law. And then if the laws are bad, popular sentiment finds its appropriate work in changing the laws. But our judges are not to be overhauled and turned out, beeause they, in executing laws, run counter to public sentiment. This would be disorganizing, revolutionary, mob-like. The idea is full of mischief.

"But with even greater feeling I would protest against turning a man out of one judicial office, wherein he has given no reason of complaint, for a wrong deeision or action in another. And that you should have aided in this attempt, which to me seems wicked towards the individual (of which I think the less) and subversive of constitutional principles, and of all stable and equal judicial action, really fills me with grief.

"If Mr Loring had decided the case otherwise, I think it would have been a just decision, *on the evidence presented*, which was somewhat deficient. If he had refused to aet in the case, in defiance of the law requiring him to aet, *I should try to hold him excused. If he had resigned his office at the outset, that would be best of all. I wish that no man would hold that office.*"

☞ The above, from a private correspondent, is the best stated protest against the removal of Judge Loring by the legislature, that we have seen. It comprehends all that the Judge's own protest contained, more forcibly presented. And yet, to our mind, confession is substantially made against the writer's own argument in the last paragraph. At least, with that as the ground-work, and with a less vivid fear of establishing a bad precedent, we come to a different conclusion from our correspondent.

Nobody, certainly not the Republican, charges or insinuates corruption or willful dishonesty upon Judge Loring. His offense was an outrage upon the convictions of Massachusetts,—a setting at defiance all her moral feelings, her self-respect, her humanity, her conscience,—rudely trampling them under foot, and bringing disgrace upon the state, that he might fulfill his cold, intellectual, purely selfish views of duty under the law. That is his offense—not that he did what he had no right as simply Mr Commissioner Loring to do,—but what he had no right to do as a Massachusetts MAN, and as a Massachusetts judicial officer, and as part and parcel of her character.

It is not against Judge Loring personally, for we harbor no feeling against him, but against the deed, that we would both protest and act. The reputation of the state is involved. It needs to be vindicated. The prineiple should be established that social and political and judicial position in this eommonwealth are either and all incompatible with the business of slave-catching.

Between thinking the fugitive slave law a constitutional statute, and acting under it in cateh-ing fugitive negroes, there is a wide difference.—The one is the *opinion* of a *lawyer;* the other the *act* of a *man*. Few who give the opinion would do the act; our correspondent, for instance, though he defends Judge Loring most valiantly, would see every slave in the South running by him into Canada, and refuse half their value in Alabama, with John Mitchell's coveted plantation to boot, were they offered to him, rather than to do what Judge Loring did in the case of Burns. "Is thy servant a dog?" we are sure would be the prompt utterance of heart and voice. There is a difference of race, almost, between lawyers and men. What the individual would do, or defend, as a lawyer, he would spurn as a man. Most good lawyers are good men. But the exceptions are only too numerous. Judge Loring may be a good lawyer; but he is not a *man*,—not by the Massachusetts standard. And were he to go to South Carolina, or Louisiana, or Texas, we think he would still find slave-catching just as incompatible with respectable position there as here. Rather more so, for the fame of Massachusetts we are sorry to add.

We have great respect for law. We mean to abide by it. But it is not the perfection of human reason, nor the beginning or end of all things; though it be one of the great instrumentalities of good order and civilized society. We believe there is something besides and something higher. We are not ashamed to say that we believe in a higher law. We would not resist law, unless we were prepared for rebellion and revolution. But we would refuse to obey or to execute some laws; and the fugitive slave law is one of them. Coleridge was not much of a lawyer, but he was something of a man; and he says: "with our grandfathers, 'the man who squares his conscienee by the law' *was a common synonym for a wretch without any conscience at all.*" A great many crimes have been committed in the name and by the instruments of the law. And yet its value is inestimable, and it should be sustained and abided by whenever the sacrifice is not greater than the blessings it sceures.

The defense of Judge Loring rests solely upon the ground that he clung to the law,—that he was a disciple of it, that he knew nothing outside of it, and was governed by that and that alone. Yet had this strait-laced doctrine followed him through,—had the law been his only idol and ruler,—how plainly could he, not to say should he, have released the unhappy Burns? There was a material legal error in the evidence of the claimants. They alleged that he run away from Virginia on a certain day; *that day* and *before*, he was in Boston. Here, if the bond was to be fulfilled to the letter, and not beyond, was opportunity to discharge the poor fugitive. But the Judge strained the law through a different sieve, and mercy dropped none of its fatness. He, in his own mind, decided the case before he heard it. He told the friends of the slave, when they came to arrange with him for a hearing, that it was of no use, that it was a clear case, and that the slave must go back.

Judge Loring, it is true, was U. S. commissioner when he was appointed judge of probate; but then the fugitive slave law did not exist. There was no *law* forbidding the exercise of the duties of both offices. True, there was no statute, enacted and signed; but there was a law in the feelings and convictions of the people of the commonwealth, written all over the history of the state since the enactment of the fugitive slave law in 1850,—manifesting itself in every election, through every press, on all occasions of the assemblage of the people, ringing out from every pulpit, and declaring that Massachusetts had no sympathy with slave-catching on her soil, and would hold in unutterable disgust any of her citizens who should engage in it. Had Judge Loring no knowledge of this engrossed, enacted, settled law? Has he no eyes or ears for laws not printed in small pica in the Revised Statutes and its supplements, and signed, sealed and delivered by governor, secretary of state and state printer? Shuts he his soul to what is going on around him? To the laws of conscience working among a free and liberty-loving people? It would seem as if he did, and that he has just woke up to a realization that there is something else besides statute law, that governs, controls and animates the actions of society and states.

We do not share in the fear that the independence of the judiciary is to be damaged by the removal of Judge Loring. We will trust the good sense of Massachusetts to take care of that. And we think we would run the risk of having our judges a little less independent rather than to have them descend to the dirty work of slave-catching. That is altogether too independent for this commonwealth. She ceases to be Massachusetts when her judiciary is to be upheld in such business. Our judiciary would be just as able and just as independent, we have no doubt, if they were made elective by the legislature once in ten or a dozen years. We have no more fears of the legislative authority than of the executive.

It is not a mere sentiment, opinion, or feeling, soon to change or pass away, which Massachusetts holds with regard to the fugitive slave law. It is a conviction. It is a part of herself. And the few who do not sympathize with that conviction do not sympathize with Massachusetts.

There is a conservative view of the proposed removal of Judge Loring. The state should be and we believe will be content with establishing the principle, that she will neither obey or resist the fugitive slave law. To the clear establishment of this principle, the removal of Judge Loring seems necessary, as making evident the feeling of the commonwealth, as an example to such other officers and citizens as are lawyers and nothing else, and as proclaiming to the world, in unmistakable terms, the position of Massachusetts. Failing in this, there will be new strength added to the efforts already making for a law of resistance and active nullification. And Massachusetts would find herself, most likely, in open rebellion against the general government. For that, *we* are not ready. That position we deprecate. But there is a strong popular demand for the expression of the conviction of Massachusetts. The state seeks to declare itself. It is better that Judge Loring should fall, a victim to his own want of sympathy with the great heart of the commonwealth, than that the state should be more strongly tempted to go beyond the true doctrine of state rights, and place itself in open opposition to the general government. We have the right to do the one; we may make social and political aliens of men here who will serve in the legalized work of catching negroes inspired by the doctrines of the declaration of independence; we can suffer the execution of the hated statute; —and let us do what we may and what we can, in obedience to the convictions of our people, that we may not be tempted to do what we should not, and what we cannot rightfully, without danger to higher interests than those of one individual who has forfeited his right to the confidence and support of the state.

We are hardly done, though we have grown unreasonable in space. We think we have shown that there is something besides a question of mere law in this matter, or a question of individual right, or a difference of opinion. It involves in its discussion something besides cold, intellectual reason. Reason should be the guide but not the governor of instinct. The latter must go right, says Pope, while the other may go wrong. There is but one ground on which Judge Loring's removal can safely or rightfully be stayed. That is pity. He may well cry, in view of his rejection by the board of overseers of Harvard college as law lecturer at Cambridge—which, as a question of confirming him in a new office, not as removing him from an old, was much stronger and clearer against him than that pending in the legislature,—and the probable issue of his case as judge of probate, that his 'punishment is greater than he can bear.' And the mercy which he failed to show to the poor fugitive, when that fugitive's liberty, not his property, was in question before him, may not unlikely be asked of the representatives of the people, before whom his conduct is now arraigned.

JUDGE LORING'S CASE IN THE LEGISLATURE. This is to be examined into and reported upon by the committee on federal relations, who will commence to-day the hearing of arguments for and against his removal. The petitioners for the removal are to be represented by A. B. Ely, John A. Andrews, Wendell Phillips, E. M. Wright and Seth Webb Jr. While Judge Loring will be defended by George T. Curtis, Sidney Bartlett and R. H. Dana Jr. The committee which has the question in charge numbers seven, four of whom were formerly whigs, two free soilers, and one independent, as follows: Messrs Albee of Middlesex and Pierce of Norfolk, on the part of the Senate, and Messrs Stone of Boston, Knowles of Eastham, Devereaux of Salem, Warner of Northampton and Gould of Falmouth, on the part of the House.

HEARING APPOINTED.—We understand that the committee on Federal Relations of our legislature have appointed Monday next at three o'clock, for a hearing in the case of the petition for the removal of Mr. Loring from his office of Judge of Probate of the county of Suffolk. We presume that the committee will be ready to hear what parties on each side have to say.

If the petitioners succeed in satisfying the committee of the constitutionality and propriety of the removal, in the entire absence of any evidence of Judge Loring's misb. having in his office, it will be necessary that the committee, if they are really actuated by motives of public interest, shall also recommend the removal of all the judges of the Supreme Judicial Court, and (to use an expression employed by one of the papers advocating the removal) the "fumigation" of the bench. Such a removal, as we suggested yesterday, would be precisely as proper and as regular a proceeding as the removal of Judge Loring—and, what is more, the legislature, unless the motive of its action is the desire to gratify a petty personal spite, *must* remove the judges of the Supreme Court; for they are equally guilty with Judge Loring of the same offence as that alleged against him; since they have affirmed the constitutionality of the fugitive slave act of 1850, they have declared it to be a part of the law of the land in Massachusetts, and they have declared it to be the duty of magistrates here to act under it. It is clear that if the plea that Judge Loring's conduct in the rendition of Burns was not in harmony with the feeling of Massachusetts, the opinion of the Supreme Court on the constitutionality of the fugitive slave law equally offends this supposed "feeling" and demands the removal of the venerated Judges of the Supreme Court who unanimously concurred in asserting this opinion.

We do not believe that there is any feeling general among the people of Massachusetts which will justify such an outrageous assault on the independence of the Judiciary. Nor do we believe that there is any feeling general among that manly and intelligent people which will justify an arbitrary exercise of power for the proscription of a single individual, whose offence, if it really be an offence, is shared by the highest Judges of the State.

We shall be glad to hear distinctly stated by the petitioners, or any of them, the grounds on which they urge the removal of Judge Loring. The Evening Telegraph of yesterday says :—

The *Advertiser* evidently misapprehends the grounds on which Judge Loring's removal is demanded. No one asks for his removal because he is pro-slavery in his opinions. His *opinions* are not in question at all. His removal is desired because of his *action* in the Burns case. Because he sent back Burns to slavery, in defiance of the spirit of the laws and institutions of Massachusetts, in defiance of the almost unanimous sentiments, feelings, and wishes of her people, contrary to the precepts of religion and to the dictates of common humanity, and contrary *to the evidence and the law of the case.*

The point of the reasons for the removal as thus stated by the Telegraph, appears to be this—that Judge Loring, being a U. S Commissioner, is *n*[illegible] liable to blame for sitting in the Burns case; but that his decision was wrong. If he had discharged the negro, there would have been no objection; his offence was returning him.

Admitting that the petitioners and advocates for the removal generally confine themselves to this point, which we do not think they do, it will not be pretended that Judge Loring, sitting as Commissioner ought to have used his office as such commissioner, to discharge Burns *against* what he thought the law and the evidence; nor, we presume, will it be alleged, that his decision for the rendition, was not in accordance with his honest and conscientious opinion of the law and the evidence. Nor will the singular doctrine be urged that it is the duty of the legislature of Massachusetts to revise and review the action of the commissioner in his office, it being conceded by the Telegraph that he had a right to sit in the case. If, as commissioner, he has rendered a wrong decision, it rests with the United States authorities to punish him for his misconduct in that office.

Nor does the Telegraph's statement alter the view taken in our article of yesterday, and again brought forward above. The Telegraph, we presume, like most of the petitioners for Judge Loring's removal, holds the fugitive slave act unconstitutional; and accordingly the judges of our Supreme Court in declaring it to be constitutional, made (in their opinion) a wrong decision; one "in defiance of the spirit of the laws and institutions of Massachusetts, in defiance of the almost unanimous sentiments, feelings, and wishes of her people, contrary to the precepts of religion and to the dictates of common humanity, and contrary to the evidence [so far as there was any evidence] and the law of the case." This, we submit, is not an unfair view of the way the anti-slavery people regard a decision affirming the constitutionality of the fugitive slave law; yet it is the precise language used by the Telegraph to define Judge Loring's offence.

[From the Boston Chronicle of yesterday.]

JUDGE LORING AND HIS ASSAILANTS.—We understand a very fierce attack is to be made on Judge Loring, on the ground that his proceedings under the United States Act of 1850 conflicted with the spirit of the State Act of 1843.

The State Act of 1843 prohibited certain State Magistrates from acting in *their character of State Magistrates* under the United States Act of 1793, under which the action of State Magistrates was purely voluntary on their part.

Now Judge Loring did not act in his *character of State Magistrate*, nor was his action voluntary on his part, but made *a duty* by the United States Act of 1850, which was and had been declared to be the Supreme Law of Massachusetts. Therefore, to his case the State Act of 1843 had no possible application or reference. Moreover, the United States Act of 1850 was decided to be Constitutional, and declared obligatory on all the Magistrates and people

of Massachusetts, in 1851; therefore, after this decision and declaration, three years and three legislative sessions passed, and after the passage of the Act, four years and four legislative sessions passed, and not an Executive or Legislative intimation was given that the offices of State Magistrate and United States Commissioner were incompatible, although the United States Act of 1850 and its requirements were the subjects of the most earnest public attention, and although all the United States Commissioners were also State Magistrates. X.

We cheerfully give place to the following communication from a gentleman, a member of the Board of Overseers of Harvard College, for whom we have a high personal respect. It explains the reasons upon which he, and doubtless some others, (there is no way of ascertaining how many) based their action in voting against the confirmation of Judge Loring to be Law Lecturer. We are glad to record an explicit disclaimer of any influence in their votes flowing from Judge Loring's action in the Burns case.

With regard to the general question, whether the Overseers might not properly have approved the action of the corporation in replacing Judge Loring as Lecturer (in which position the Overseers had once confirmed him) after the corporation had withdrawn the plan for a professorship on finding it was disliked by the Overseers—there is of course room for difference of opinion.

But that the anti-slavery hostility to Judge Loring in consequence of his action in the Burns case was the controlling motive in causing the vote of many of the Overseers—we think it idle for anybody to deny. At all events, it is so regarded by a great many people both at home and at a distance. The rejection of Judge Loring is boasted of as an anti-slavery triumph.

The statements of this communication afford a new proof of the entire want of analogy between the vote of the Overseers and the proposed removal of Judge Loring from his judicial office by the Legislature.

[For the Boston Daily Advertiser.]

As one of the Board of Overseers of Harvard College, I have indulged the hope that a concise and fair statement of the proceedings of that Board in relation to the rejection of Judge Loring, as Lecturer in the Law School, would have appeared in some of the leading newspapers in Boston. In this expectation I have been disappointed. No statement has yet been made to enlighten the public or the friends of the College by presenting to them the real questions which have been decided, showing the actual position in which Mr. Loring has been placed as one of the instructors in the law school at Cambridge.

The object of this communication is to supply the omission. It appears by the record of the Board of Overseers, that the proceedings of the corporation in relation to Mr. Loring as law lecturer, were first presented to that Board as follows:—"At a meeting of the Board of Overseers, Feb. 5th, 1852, the President of the University presented the votes of the President and Fellows, appointing the Honorable Edward Greely Loring, Lecturer in the Law School for the remainder of the present Academical year. At a meeting of the Overseers, Feb. 19th, 1852, Mr. Loring's appointment was confirmed." The period when the lectureship would end by this vote was August 31st, 1852, the termination of the Academical year, for which he had been appointed. But, Mr. Loring was permitted by the corporation to continue as lecturer, without any further communication to the Board of Overseers, until some time in the year 1853, when he was nominated to be University Professor of law. This proceeding of the corporation was presented to the Board of Overseers in the following form:—"At a special meeting of the President and Fellows of Harvard College in Boston, December 23, 1853, the following preamble and votes were passed:—

"Whereas, the great increase in the number of students attending the Law School has rendered it necessary to provide larger and more ample means of superintendence and instruction, and at the same time has increased the means of affording such increased superintendence and instruction: Voted, That there be, and there is hereby established the office of University Professor of Law, the professor holding this office to perform all the duties of superintendence and instruction in the Law School in connection with the Royall and Dane Professors, the distribution and arrangement of these duties to be made by the three Professors. This Professorship is to be subject to all the statutes and by-laws, which have been, or may be hereafter made for the regulation and government of the Law School in this University. Voted, That until further order the Professor to be elected in this establishment, shall not be required to reside at Cambridge. Voted, That that this Board do now proceed to elect a University Professor of Law.—Whereupon ballots being given, it appeared that Edward G. Loring, Esq., of Boston, was unanimously elected. Voted, That the President be requested to lay before the Board of Overseers the above vote, establishing the Professorship, and the election of Edward Greely Loring, Esq., to that office.

A true copy of the record,

Attest: GEORGE PUTMAN, Secretary."

The whole subject was submitted to a committee, consisting of Francis Bassett, Richard Fletcher, and Samuel Hoar, Esqrs., who made a report, that after a very careful and thorough examination of the subject, they unanimously came to the conclusion that this Board ought not to concur with the Corporation in their vote to establish the office of a University Professor of Law. In this report it was stated, that the Dane and Royall professorships constituted the permanent department of law in Harvard College, although several persons have been, from time to time, temporarily employed to render services in aid of these two professors; that the establishment of a new additional professorship would be a material change in the organization of this department, and that the necessity for such a change, which ought to be clearly shown, did not appear to the Committee, then to exist. It was the opinion of the Committee, that the surplus funds beyond the wants of the two permanent Professorships should be applied, from time to time, in such manner as the best interests of the School may require; that instead of another permanent instructor, some variety in the mode of instruction, and some variety in the talents and attainments of persons employed for a limited time, as lecturers, would be of value and service to the School. In this way eminent men may at times be obtained to lecture on special branches of the law, to which they have paid particular attention, to the great advantage and credit of the School; and by bringing in occasionally new men, who are fresh and ardent in their work, both teachers and pupils would be quickened and animated in giving and receiving instruction. The Committee were decidedly of opinion that the duties of a Professor or of a permanent lecturer in the School, and the duties of a Judge of Probate, which would require so much of his time and attention in the faithful performance of his judicial labors, would make it incompatible for one person to hold both offices at the same time.

This report was fully discussed, and although it was pretty well ascertained that a large majority of the Board of Overseers would be in favor of its acceptance, it was concluded to adjourn before the question was taken. During the time of adjournment, the corporation had a meeting and voted to rescind their former vote, establishing a new professorship and the appointment of a professor, and this vote, at the next meeting of the Board of Overseers, was laid before them by the President of the College, and no further proceeding was had, but to accept the last vote of the corporation, and order the same to be recorded. Thus ended, as it was supposed, the question about a new professorship, and it was hardly to be expected, that substantially the same question would so soon be presented to the Board of Overseers, that is, whether they would assent to the appointment of the same person as University Lecturer in the Law School, for an indefinite time. But so it is, Mr. Loring was continued by the corporation as lecturer, without the assent of the Board of Overseers, with an increased compensation, until the late meeting of the Overseers, when the vote of the Corporation was presented by the President of the College for the assent of that Board, which appears by the record, as follows:—

"At the meeting of the Overseers held January 25th, 1855, the Rev. President presented the following communication from the Corporation," viz: "At a stated meeting of the President and Fellows of Harvard College, in Boston, August 26, 1854, the Chief Justice for the committee on the communication of the Law Faculty reported, that they recommend the reappointment of Mr. Loring to the lectureship of the Law School —whereupon it was voted that the Hon. Edward G. Loring be reappointed lecturer in the law school. Voted, That the President be requested to lay this appointment before the Board of Overseers, that they may concur therein, if they see fit"

That the Board of Overseers did not see fit to concur therein, is well known. It so happens that three-fourths of the present Board of Overseers are the same persons, who had fully considered the question at the annual meeting of the last year, and a large majority of whom, as was well understood, were in favor of the acceptance of the report of the committee, when it was presented and fully discussed as before stated. At that time Mr. Loring had not acted as Commissioner in the Burns case, the result of which may have influenced the opinions of some of the new members of the Board.

In such a posture of the case, perhaps the interests of the law school would have been better promoted, if Mr. Loring could have had the advice of judicious friends, or if by a prudent foresight he had voluntarily withdrawn from the School; for it is obvious that the last vote of the Board of Overseers was merely in conformity with the opinions which have been indicated by previous proceedings in the Board, and might reasonably have been anticipated. Men of high qualifications may be found, who will occasionally give a course of learned and interesting lectures, and will preside with distinguished ability in the Moot Courts, conformably to the views which were so fully expressed in the report of the Committee already mentioned, when the subject was fully discussed, and the views of the Committee were assented to by a large majority of the Board of Overseers. B.

DAILY ADVERTISER.

BOSTON:

MONDAY MORNING, FEB. 26, 1855.

For telegraphic and other late intelligence, see first page.

☞ No notice can be taken of anonymous communications.—We must know the names and addresses of our correspondents, as a guarantee of their good faith. We cannot undertake to return communications that are not used.

PROPOSITION TO REMOVE JUDGE LORING.—The members of the Legislature stand under a weighty responsibility in the pending proposition for the removal of Edward G. Loring from his office of Judge of Probate. Admitting their right to effect the removal by the address of both houses to the Governor, they have confided to them a power vast and comprehensive, without any other check than the belief of the patriots who framed the Constitution, that the power would never be abused. In this belief, the people of the Commonwealth have likewise reposed with confidence for seventy-five years. There are no expressed limitations—there is no appeal. The language of the Constitution is that "all judicial officers duly appointed, commissioned and sworn, shall hold their offices during good behavior"—"provided, nevertheless, the Governor with consent of the Council may remove them upon the address of both houses of the legislature."

There are some lights afforded by the Constitution for the interpretation of this language which the members of the legislature are bound to regard, and to which, in their anxiety to do only what is right and proper in the premises, uninfluenced by passion or prejudice, we have no doubt they will give due heed.—In the first place, it is very distinctly stated in the Bill of Rights, which underlies the Frame of Government in the Constitution, that the executive, legislative and judicial departments of the government are to be preserved wholly distinct, and there must be no interference of any with either of the others. It is likewise solemnly declared in the Bill of Rights, that "all power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive or judicial, are their substitutes and agents, and are all times accountable to them" that is to the people. It does not belong to the legislature, therefore, by natural right, to assume the function of "purifying" the bench, any more than it would belong to the bench to undertake to "purify" the halls of legislation. Each department of the government is designed to be distinct: each is

supposed to act with a feeling of responsibility to the people, and the legislature ought to grant as much credit to the judges for the honesty and sincerity with which they discharge the duties of their offices, as the members expect to have extended to themselves.

The Constitution further provides for the impeachment of officers of government, judges included, for misconduct or mal-administration in office; the House of Representatives is the inquest to make the impeachments and the Senate is the court to try them. Everybody knows that the trial of an impeachment is a protracted, cumbrous and expensive proceeding; and the extreme of the sentence which can be pronounced is removal from office, with the nominal addition of disqualification to hold any other office. This provision of the Constitution indicates that the removal of judges by address is not to be used lightly and without restraint; else why need there ever be an impeachment?—The House could easier pass the address than impeach, and the Senate could easier pass the address than try—and in case of suspicion, the judge could thus be removed by address, easily, without delay or expense. That another mode is provided for *some* cases, proves that removal by address may not properly be used in *all* cases.

We shall here be met by the assertion that impeachment is the mode for removing a judge when he has misbehaved in his office: and address is the mode of removal provided for unofficial misbehavior or incompetency; and that as it is not pretended that Judge Loring has been guilty of any misbehavior in his office, the removal by address exactly meets his case and the legislature ought to remove him. This, if we understand it rightly, was the substance of Mr. Wendell Phillips's most ingenious and eloquent argument before the legislative committee last week.

The argument thus stated is based on a distinction which has point, if not truth, and appears plausible: but we think it is fallacious. In point of fact, the conclusion which the advocate seeks to prove is assumed at the outset, viz: that Judge Loring ought to be removed. We may grant that if he had misbehaved in his office, he ought to be removed by an impeachment and the consequent trial and sentence—and if he had misbehaved out of his office or was found to be incompetent for its duties, he ought to be removed by address. But what if he has not misbehaved at all? And this, we contend is the exact state of the case.

The Constitution does not expressly say that the power of the Legislature to remove judges shall not extend to pure, blameless, honest and capable judges; because it was not to be supposed that the Legislature would seek to remove such. On the same principle, the Constitution nowhere expressly says that a majority of the members of the Legislature present and voting in either house shall be necessary to carry any measure. It gives to each branch full power to settle its rules and orders of proceeding, and fixes the number which shall be a quorum in each. If any "strict constructionist" should ask what is to prevent the Legislature from agreeing that all votes shall be decided according to the will of the *minority*, as ascertained by each division, the reply would be that the intelligence and good sense of the representatives of the people was the only check against such a proceeding. This, of course, is an extreme case; it may be called an absurd one; but it illustrates the principle.

While therefore it may be said that there is no expressed restraint upon the power of removal by address, every high-minded member of the legislature will feel that the restraint is all the stronger because it is not expressed. There is no pretence that Mr. Loring is not a capable, honest, and faithful Judge. It cannot be denied that his kindness of heart and courtesy of manners, his high sense of principle, his legal attainments, and his experience in the discharge of the duties of the office, especially fit him for the peculiarly delicate yet important functions of Judge of Probate.

Besides this, it cannot be concealed that, in whatever language ingenuity may describe it, the offence (we use this word for want of a better) which has rendered him obnoxious to the petitioners, was the result of that which is acknowledged to be the most desirable characteristic of all in a Judge, viz: *independence*. We do not want judges to court popular favor and to strive to keep with the ever-changing current.

Mr. Wendell Phillips quoted largely from the speeches in the Convention of 1820, in proof of the right of the Legislature to remove judges by address. It does not need authority to prove that the Legislature have this right to remove in cases which are proper occasions for the exercise of the right. The question is, Is this such a case? We think not; and as we read the speeches of Messrs. Webster, Story, and others in the Convention, we find their leading idea was the apprehension of precisely such abuses of the power of removal by address, as the petitioners are now trying to stimulate the Legislature to perform.

This apprehension was so strong that these eminent statesmen wished to insert in the Constitution some checks against the free exercise

of the power, and this would doubtless have been done, except that the fact that the legislature never had yet abused the power and might accordingly be safely trusted to exercise it judiciously for the future, was urged with irresistible force on the other side. We had intended to make a number of extracts from speeches in the Convention to show that the great men whose names have been used as authority for the proposed removal, feared and deprecated precisely the thing which the petitioners and their advocates are seeking to effect. The space already occupied by this article compels us to confine ourselves to the following brief extracts from the speech of Hon. Daniel Webster, which may be found at page 481 of the Journal of Debates, &c., (new edition) and page 26 of the third volume of his Works:—

"As the constitution now stands, all judges are liable to be removed from office by the governor, with the consent of the council, on the address of the two houses of the Legislature. It is not made necessary that the two houses should give any reasons for their address, or that the judge should have an opportunity to be heard. I look upon this as against common right, as well as repugnant to the general principles of the government. The commission of the judge purports to be, on the face of it, during good behavior. He has an interest in his office. To give an authority to the Legislature to deprive him of this, without trial ar accusation, is manifestly to place the judges at the pleasure of the Legislature. The question is not what the Legislature probably will do, but what they may do. If the judges, in fact, hold their offiees only so long as the Legislature see fit, then it is vain and illusory to say that the judges are independent men, incapable of being influenced by hope or by fear; but the tenure of their office is not independent. The general theory and principle of the government is broken in upon, by giving the Legislature this power. The departments of government are not equal, co-ordinate and independent, while one is thus at the mercy of the others. What would be said of a proposition to authorize the governor or judges to remove a senator or member of the house of representatives from office? And yet the general theory of the constitution is make the judges as independent as members of the Legislature. I know not whether a greater improvement has been made in government than to separate the judiciary from the executive and legislative branches, and to provide for the decision of private rights, in a manner wholly uninfluenced by reasons of state, or considerations of party or of policy."

"It cannot be denied, that one great object of written constitutions is to keep the departments of government as distinct as possible; and for this purpose to impose restraints. And it is equally true, that there is no department on which it is more necessary to impose restraints than the Legislature. The tendency of things is almost always to augment the power of that department, in its relation to the judiciary. The judiciary is composed of few persons, and those not such as mix habitually in the pursuits and objects which most engage public men. They are not, or never should be, political men. They have often unpleasant duties to perform, and their conduct is often liable to be canvassed and censured, where their reasons for it are not known, or cannot be understood. The Legislature holds the public purse. It fixes the compensation of all other departments—it applies, as well as raises, all revenue. It is a numerous body, and necessarily carries along with it a great force of public opinion. Its members are public men, in constant contact with one another, and with their constituents. It would seem to be plain enough, that without constitutional provisions which should be fixed and certain, such a department, in case of excitement, would be able to encroach on the judiciary. Therefore is it that a security of judicial independence becomes necessary; and the question is whether that independence be at present sufficiently secured. The constitution being the supreme law, it follows, of course, that every act of the Legislature, contrary to that law, must be void. But who shall decide this question? Shall the Legislature itself decide it? If so, then the constitution ceases to be a *legal* and becomes only a *moral* re- s raint on the Legislature."

Col. Suttle against the Mayor of Boston.

[From the Alexandria (Va.) Gazette.]

To the Editor of the Alexandria Gazette:

I see by the newspapers that resolutions have been passed in several of the counties of Virginia, commending the course of Mayor Smith, of Boston. As I do not concur in these complimentary resolutions to the mayor, I think it my duty to give a short statement of facts, showing his action in the beginning of the trial.

The fugitive was arrested on Wednesday night and brought before the commissioner on Thursday. After the identity of the negro had been established and he had repeatedly acknowledged that he belonged to me, the commissioner, for some unaccountable reason, adjourned the case till the following Saturday.

During the next day, Friday, the abolition newspapers and the fanatics of Boston were actively engaged in manufacturing excitement against me. The mayor was applied to for the use of Faneuil Hall, and requested to preside over their meeting. He gave them permission to use the hall, and said nothing would give him more pleasure than to preside over their meeting, but that he had an engagement for the evening, which would prevent his doing so. He assured them, however, that all his sympathies were for the negro: he had none for kidnappers.

After the meeting had assembled and by a unanimous vote had declared that they would rescue the fugitive and attack us at the "Revere House," he was called upon by the United States Marshal for a part of his police forces to *protect the court-house*, where the negro was kept in the custody of the officers. He replied that he had no force to spare. There was no mob in the street, and he had no right to anticipate a riot; his duty was to have the street cleared if a mob assembled. The proprietor of the "Revere House" also called upon him after the murder of Batchelder, and asked for a police force to protect his house, as well as for the protection of Mr. Brent and myself, who were staying there. His reply was that "he had no force to spare."

On Saturday morning, *his honor* finding the respectable portion of the community censured him for his course, and no doubt smarting under the conviction that he was to some extent accountable for the murder of Batchelder, changed his position, and declared in the language of President Pierce, "that the law must be executed." This course brought down upon him the curses of the abolitionists, who abused him as a *traitor*, and failed to command the respect of the law-abiding citizens.

I take this occasion to return my thanks to the proprietor of the "Revere House," for his kindness and attention during my stay in Boston, and beg that he may not be forgotten by southern men who visit that city. Yours, truly, CHAS. F. SUTTLE.

Alexandria, July 3, 1854.

Evening Telegraph.

Boston, Monday, Feb. 26, 1855.

ARREST FOR RESISTING THE U. S. MARSHAL — Walter Bishop, a colored man, was arraigned before Judge Sprague on Saturday, on an indictment for obstructing the U. S. Marshal in the Burns case. He was held in $1500 for trial in March, Thomas Gaffield becoming his surety.

JUDGE LORING'S REMOVAL.—We learn that the speakers at the second public hearing on the removal of Judge Loring, Weduesday afternoon next, are as follows:—For the removal, J. A. Andrew, Richard Hildreth, and others. Against—G. T. Curtis, R. H. Dana, Jr.; Rev. Robert W. Cushman, R. F. Hallett, and Jonathan Peirce.

Spirit of the Press.

MONDAY MORNING, Feb. 26.

The *Advertiser* blandly discusses the preposition to remove Judge Loring. It admits to the fullest extent the right of the Legislature to address the Governor and Council for his removal. It argues, however, "that removal by address may not properly be used in all cases." Of course. Nobody disputes that.

Again, says the *Advertiser*, Judge Loring has not *misbehaved at all*, in office or out of it.

"There is no pretence that Mr. Loring is not a capable, honest, and faithful Judge. It cannot be denied that his kindness of heart and courtesy of manners, his high sense of principle, his legal attainments, and his experience in the discharge of the duties of the office, especially fit him for the peculiarly delicate yet important functions of Judge of Probate."

Evidently, the *Advertiser* is still in the dark about this matter. Judge Loring *has* misbehaved, grossly misbehaved in the Burns case. He is *not* a capable and faithful judge. We deny, and the great mass of the people of Massachusetts will echo our denial, that he is qualified either by "kindness of heart," by "high sense of principle," or by "legal attainments" to be Judge of Probate. His removal is demanded expressly on the ground that he lacks kindness of heart, that he has no high sense of principle, and that he has not the legal attainments which a Massachusetts Judge should possess. The Burns case manifested in the strongest possible light his glaring deficiency in the very qualities enumerated by the *Advertiser*.

The *Advertiser* says further:

"It cannot be concealed that, in whatever language ingenuity may describe it, the offence (we use this word for want of a better) which has rendered him obnoxious to the petitioners, was the result of that which is acknowledged to be the most desirable characteristic of all in a Judge, viz: *independence*. We do not want judges to court popular favor and to strive to keep with the ever-changing current."

Neither do we. Neither does anybody that we know of. But what evidence is there of *independence* in Judge Loring's action in the Burns case? We can see none. On the contrary, it seems to us that he acted in servile sympathy with the narrow notions and feelings of a clique, or set of men here in Boston, upon whom he has always been dependent, and who constitute the only public that he knows or recognizes. We do not believe that he had any idea that he was braving popular opinion, or risking popular favor in sending back Burns. He probably thought that none but a few despised fanatics would seriously blame him for it, and that, on the other hand, the wealth and "respectability" of Boston would sustain him in it. Fancying himself secure in his office of Judge, in his lectureship in the conservative and "respectable" University, and knowing with certainty, that he would be sustained by the powerful influence of the United States government, by the applause of the South, and of "respectable" hunkerism everywhere, and by the sympathy of his own social set, what amount of "independence" did it require to venture to disregard a little "abolition clamor?" He had been in the habit of reading the Advertiser and relying on that journal for political ideas and information, had been taught that the anti-slavery men were a contemptible set of fanatics, without character or influence, whom all "respectable people shunned and despised, and whose outcries against the execution of the Fugitive Slave Law only excited laughter or patriotic indignation. He knew little or nothing of the true feeling of the State. By this time, we trust, he has learnt that Beacon street is not Massachusetts.

THE WIDOW OF BATCHELDER. A correspondent says:—Some reminiscences are painful, yet profitable. "The Burns affair" we do not like to recall, yet it may quicken conscience to duty, and the heart to sincere sympathy. The widow Batchelder, of this city, was assured of wide-spread sympathy throughout the South, as well as from Government.—The fact is, that she has received from the South only three tokens of sympathy and aid. The citizens of Jacksonville, East Florida, contributed $100. The citizens of Savannah and persons connected with the office of "The Daily Morning News," in that city, forwarded $133 89. One citizen of Fayettesville, N. C., remitted $20. Total, $253 89. From Government Mrs. Batchelder has not received one cent—not even her husband's wages for services rendered on that fatal night. Now, if this is Southern sympathy and Government pay, let it be understood.—*Bunker Hill Aurora.*

To the Editor of the Boston Daily Advertiser:

DEAR SIR—One of the majority of the Board of Overseers of Harvard College, who signs himself "B," sought in your paper of Saturday last "to enlighten the public and the friends of the College, by presenting to them the real question, which has been decided, showing the actual position in which Mr. Loring has been placed, as one of the instructors of the Law School at Cambridge."

On this claim he undertakes to state the action of the Corporation of Harvard College, and he so forms his statement as to imply directly and clearly, that the Corporation sought furtively to continue Mr. Loring in office, in violation of their official duty, and all direct and honest procedure. For B's closing statement is:—"But so it is, Mr. Loring was continued by the Corporation as lecturer, without the assent of the Board of Overseers, with an increased compensation, until the last meeting of the Overseers."

Now, in answer to all such suggestions, the fact is evident, that Mr. Loring's continuance as lecturer from August 1852, to February 1855, could not be furtive; for the performance of his duties was public, and his name was in the annual catalogues and the newspaper advertisements of the Law School. The fact was known, therefore, and no objection to it was made at the Board of Overseers, in all the years of its continuance, till "B.," a member of the Board, produces his allegations in a newspaper article.

As to the violation of official duty, and indirect and dishonest procedure, on the part of the corporation of Harvard College, the proper answer is, to repeat the names of all the gentlemen, who have been members of that body, at any time during the transactions referred to. They are—

The Rev. Dr Walker, President of Harvard College,
Chief Justice Shaw,
Charles G. Loring, Esq,
Rev. Dr. George Putnam,
Hon. Samuel A. Eliot,
Dr. George Hayward,
John A. Lowell, Esq., and
William T. Andrews, Esq.

"B" mistakes his position, and that of whomsoever he is the mouthpiece, if he believes that his imputation can attach official misconduct to these gentlemen in this community.

"B" says "in such a position of the case, perhaps the interests of the Law School would have been better promoted, if Mr. Loring could have had the advice of judicious friends, or if by a prudent foresight he had voluntarily withdrawn from the Law School,"

This remark has the appearance of seeking to cast upon Mr. Loring, the responsibility of the recent transactions at the Board of Overseers connected with the Law School.

The "position of the case" in August 1854, was this; for more than two years Mr. Loring had been a lecturer in the Law School, throughout that time performing regularly the duties of the office, which are, the delivery of two lectures of an hour each, every Friday morning, and holding ten moot courts on Friday afternoons in each term. Exactly what he had done, and could continue to do, was therefore well known to everybody connected with the Law School. The Corporation knew whether they wanted him as a lecturer; the Professors knew whether they wanted him as as a fellow laborer; and the students knew whether they wanted him as instructor and friend. In this "position of the case" his re-nomination came before the Corporation, and it was referred by them, to the Rev. Dr. Walker, the President of the College and the official head of its Law Faculty, and to Chief Justice Shaw, as a committee, to confer with the Professors of the Law School, and to report. The conference was had, and Mr. Loring's re-nomination was reported to the Corporation, and the report was accepted and adopted by their unanimous vote. It is proper to state that Mr. Charles G. Loring was absent from meetings of the corporation at which he knew the matter of his kinsman was to be acted upon.

Now, it certainly will be admitted that the Corporation, its committee, Dr. Walker and Chief Justice Shaw, and the Professors of the Law School, were competent judges of "the interests of the Law School," and would guard sacredly the interests committed to their official and responsible action; and that Mr. Loring had and, followed "judicious" advisers in accepting a re-nomination that the concordant action of these gentlemen proffered to him, in the fullest knowledge of every circumstance that could affect it.

The manner and reason of that re-nomination by the Corporation made in August 1854, and rejected by the Board of Overseers, February 15th, 1855, are thus stated by Chief Justice Shaw in a letter dated January 30th, 1855.

"At the commencement of the succeeding academical term, when it became necessary to provide for the wants of the Law School, I think I proposed Mr. Loring as lecturer, believing, if he would accept it, it would be most conducive to the interests and success of the school. If I did not propose it, I cheerully acceded to it; it was intended for what it purported to be; the appointment of a lecturer, and nothing more."

"B." says: "It is obvious that the last vote of the Overseers was merely in conformity with their opinion, which had been indicated by the previous proceedings in the Board, and might reasonably have been anticipated." This is to say—that the proposition to establish a new professorship in 1854, was the same as the proposition, in 1855, to continue a lectureship, which had for years belonged to the Law School.

But the two offices are entirely distinct in character, duties and salary; and the objections, urged to the professorship in 1854, had no application to that lectureship.

The objection most strenuously and efficiently urged against the professorship was, that the attendance required at the School at Cambridge in the performance of one-third part of its whole duties, was inconsistent with the duties of a Judge of Probate in Boston. Now the duties of a lecturer required his attendance at the School in Cambridge only each Friday morning, and ten Friday afternoons in each term; that is, less than one day in a week for forty weeks in each year.

Then, a College Professor is a member of the College Government, with a permanent position, generally understood to be for good behavior; while a law lecturer has no connection with the College Government, and is a mere temporary adjunct, to be used as long as is convenient to both parties to the contract, and no longer; and, where no term is fixed by the contract, either party may determine it at pleasure."

Then, the salary for the professorship proposed in 1854, was twenty-five hundred dollars a year; and it was objected to it that "it would be a perpetual burden to the School" on an uncertain fund, viz:—the continuance of a full school; while the compensation of the lectureship was only fifteen hundred dollars a year, the same sum which had been previously paid to a similar office, with fewer duties assigned to it.

Surely then there is a difference between a professorship and a lectureship, known and fixed, and expressed and suggested by their difference of names; and surely the action on the former, in 1854, could furnish no indication of the vote on the latter, in 1855.

"B" says that the committee of the Board of Overseers suggested the employment of eminent men to lecture on special branches of the law, as a substitute for the permanent instructor intended by the professorship proposed in 1854. Professor Parker has disposed of this matter in an answer to an article in the New York Tribune, published in your paper of Feb. 15th, as follows:—

The "excellent hint," "that the extra funds of the school had better be devoted not to the support of a new professorship, but to the employment as occasional lecturers upon special subjects, of professional gentlemen of distinguished reputation and ability, whose connection with it might give an éclat to the school," is a hint respecting an impracticable arrangement. If the "professional gentlemen of distinguished reputation and ability" could be persuaded to "give an éclat to the school," "as occasional lecturers on special subjects," the law cannot be taught by lyceum lectures.

What the Law School needs, in aid of its regular eminent professors, is an earnest laborer on elementary instruction, and not the brilliant display of the highest professional attainments.

But we think the remarks of "B." have a reference to Mr. Loring's qualifications for a law-lecturer, which an article in the Atlas some days since impugned. Such things are easily said; and they are easily answered. The question of Mr. Loring's qualifications for a lecturer is not a matter for speculation, but of evidence; for he has been three years a lecturer at Cambridge, and the question therefore comes down to this: How has he performed his duties? On this subject we quote again from the letter of Chief Justice Shaw, which, referring to Mr. Loring's nomination to the professorship in 1854, and to the trial of two years, which had

then been had of his services, says: "That trial was had, an ample and satisfactory one, and after the most thorough and careful enquiry, both of instructors and students, I became convinced that he was eminently qualified; that his lectures were thorough, and carefully prepared, attractive as well as instructive, and that his services would be most useful to the School. This opinion I still retain, and have uniformly expressed. If the School is to be deprived of his services, the responsibility must rest elsewhere. While I have never hesitated, on every fit occasion, to express my own opinion, I have not sought nor do I wish unduly to influence the opinion of others."

At the time of the proposed professorship, in 1854, it was industriously reported, and has since, in the New York Tribune and otherwise, been industriously repeated, that Mr. Loring's nomination was *a family job*. That is answered, not only by the names of the gentlemen composing the Corporation and their known faithfulness to all duties, but by the facts.

Mr. Loring's nomination as lecturer, in 1852, was suggested to him by the Dane Professor, the Hon. Theophilus Parsons. The change of Mr. Loring's lectureship to a professorship in 1854, was first suggested to him by the Hon. Joel Parker, the Royall Professor. His nomination by the Corporation as professor was referred to Dr. Walker and chief justice Shaw, and advocated to the Corporation by both. His last re-nomination, in 1854, as lecturer was referred to the same gentlemen and the reasons and manner of it have been stated from Chief Justice Shaw's letter.

Now this is the "position of the case;" and it wil leave these facts fixed in the public mind.

1st, That the honored gentlemen who composed the Corporation of Harvard College were not unfaithful or incompetent to their official duties.

2nd, That the professorship of 1854 and the lectureship of 1855 were not the same proposition.

3d, That Mr. Loring was qualified for the office proffered to him in the opinion of those best qualified, by opportunity and capacity to judge.

4th, That he had no occasion to seek other advisers than those he had, for the interests of the Law School, and that his withdrawal from the School was not desired by those whose motive of action was its best interest and nothing else.

JUSTICE.

[Reported for the Telegraph.]

Removal of Judge Loring.

SECOND HEARING.

The Committee on Federal Relations gave a second hearing yesterday afternoon to the petitioners for the removal of E. G. Loring from the office of Judge of Probate for Suffolk County. By an order of the House the hall was open only to members of the Legislature before three o'clock; but long before that time the galleries were filled with gentlemen and ladies, the eastern gallery having been appropriated to the latter. A large portion of the hall was unfilled at three o'clock, when the doors were thrown open, but in less than five minutes afterward there was no seat unoccupied, and at the same time there were more than enough to fill it again, standing outside.

At ten minutes past 3 o'clock the Chairman of the Committee, Hon. O. W. Albee commenced the examination, and called the attention of the Committee to the testimony of certain witnesses, the first of whom was ROBERT MORRIS, Esq. He said, I reside at Chelsea. On the morning of the hearing I went immediately to the Court House, having been sent for. Found Burns there between gen[illegible]ers. R. H. Dana, Jr., was there trying to [illegible]ponement. Mr. Thomas, the representative of the claimant, was there, and Mr. E. G. Parker. I tried to have an interview with Burns Messrs. Thomas and Parker were urging the trial forward. Some testimony was offered. I think one paper was read. The case was proceeding rapidly; and Mr. Dana again spoke requesting the case to be continued, speaking warmly and decidedly; to which Mr. Parker made some response. Mr. Ellis then spoke. Then Judge Loring called Burns toward him and had some conversation with him. It was then decided to continue the case. My recollection is that Mr. Dana urged the postponement strongly, speaking twice and Mr. Ellis once.

I was present at the examination of Shadrac, and that case was hurried some, but not like the case of Burns. The impression I had was that the claimant was anxious for a trial soon. His attornies were as anxious as he. People were gathering, and I think the Judge hurried the case, but I did not think that he hurried the case more than any other Commissioner would. Never saw a case of investigation on a charge of murder hurried. The cases in the municipal court are never hurried.

Burns had no counsel at the first hearing, and when I attempted to speak with him the officers prevented me, and the Judge could have seen it. Never knew a counsellor kept from a prisoner before.

WENDELL PHILLIPS, Esq., was then called, who said—I visited Burns on Friday after his arrest. I went into Marshall Freeman's office and requested to see Burns, in order to ascertain whether he wished to employ counsel. Mr. Freeman refused me permission to see Burns. He said no one should see him except Mr. Dana. Mr. Dana refused to see him unless I, or some other person, should see him first. At Mr. Dana's request, I then went out to see Judge Loring, and asked him to give me an order on the Marshal to enable me to see Burns. He sat down and wrote an order, and as he handed it to me across the table, he said: "Mr. Phillips, I think this case is so clear that you would not be justified in placing any obstacles to (or against) this man's going back, as he probably will." He said nothing more.

REV. THEODORE PARKER was then called.

CHAIRMAN. Have you any knowledge that Judge Loring drafted a bill of sale of Anthony Burns at any time?

MR. PARKER. I have the evidence of the statement of E. G. Parker, the junior counsel of the kidnapper in the case. I have the document which Mr. Parker gave me during the trial. These are the circumstances. On Saturday evening, perhaps between ten and eleven o'clock, as I was writing at my desk, Mr. Edward G. Parker, the junior counsel for the kidnapper in this case, came to my study and inquired if I would contribute money for the purchase of Mr. Burns. It is not necessary to relate our conversation then. At a subsequent day, as I was sitting beside Mr. Parker in the Court-room, during the trial, he showed me the paper which I have in my hand. (Mr. P. then read a draft of the sale of Anthony Burns to himself.) Mr. Parker said to me "This is the bill of sale which Mr. Loring drafted on Saturday night; it is in Mr. Loring's own hand writing." I read it over and asked him if I might keep it. He said "you may keep it if you please."

The Chairman then announced that if there was any one who wished to speak for the remonstrants, an opportunity was given them to do so.

JOHN W. GITCHELL, a reputed slaveholder from Alabama, after some delay, rose and said:

Mr. Chairman, and Gentlemen and Ladies: Circumstances has fetched me into this place to defend a countryman of mine. I consider him a countryman of mine, although I am far from home, because I consider him an American citizen. I say circumstances has fetched me here to-day, to defend in a brief manner a man,—Mr. Loring, that I see there is not one here to defend. I have never saw the man, but I heard Mr. Phillips the other day. From all the circumstances that I can gather from the testimony of those witnesses that have testified to-day, and from the speech of Mr. Phillips, the removal of Mr. Loring is an agitated thing. (Great laughter.)

There appears no man in this Commonwealth of the State of Massachusetts that can bring any thing upon Mr. Loring only for the mere sum of carrying out the law of Massachusetts, for which the patriots of Massachusetts—they claim themselves patriots, and I think they are—wants to carry out. Mr. Loring has swore, took a solemn oath that he would obey and carry out the laws of this Union. We in the South hold the colored men as slaves. There are many that look upon us as though we were monsters in human shape. But if that be the case, the colonies were all monsters when they gained their independence.

Well, my colored friend here swears that he did think, under all the circumstances of agitation at that time,—and I give him great credit for it—that Mr. Loring did not hurry the case more than any other judge would. Another gentleman, Rev. Mr. Parker, comes up here and produces a bill of sale, from which I heard him read. Supposing Mr Loring did draw this bill of sale, I consider that a charitable act. He drawed a bill of sale. Mr. Phillips said that he ought not to have drawed that bill of sale. I would like to know why Mr. Loring might not draw a bill of sale as well as any other man. He is not sworn not to draw bills of sale for the freedom of his countrymen. (Great laughter.)

The chairman then rose and suggested that as Mr. Gitchell had taken upon himself to speak for the remonstrants, he should be heard without interruption.

Rev. Mr. PARKER said—allow me to say that, as I understand, Mr. Loring has not asked this gentleman to appear for him. I say this lest his remarks should prejudice the minds of the audience against Mr. Loring. (Laughter.)

Mr. RICHARD HINDRETH remarked that though Mr Loring had not invited Mr. Gitchell to speak, he appears to speak for the slaveholders. They have a right to be heard and I see nothing in what he says that does not bear upon the case, and is not worthy of attention.

The Chairman suggested that there had been a remonstrance sent in, signed by 940 persons, and perhaps Mr. Gitchell might speak for them.

Mr. Gitchell went on. As my friend here said, this question jars the ground work of this Union. There is a people in the South that look with jealousy upon this question, in the case of Edward G. Loring. These are the reasons. If you remove Edward G. Loring for carrying out the Fugitive Slave law, which the whole South looks upon as a curse, although they want the law carried out they say, because one man in this State which claims to be the greatest State of education in this land—their prejudices has prejudiced them against one man who sent back to his owner one fugitive slave. These are the facts, and they will go South and be printed in large colors. This is what they will do. There is fire brands going from one to the other. It is much easier to believe the bad than the good. We are creatures of evil as the sparks fly upward. (Merriment.) It is said that the people are prejudiced. I hope there is not so much prejudice but they can see the good.

As Mr. Phillips said Judge Loring had prejudged the man, why did he prejudge him? It is very clear. I was once called upon as a juror. They asked me if I had made up my mind. I said, "Yes, I think the man ought to be hung." Why? Because he had committed a cold outrageous murder. This slave wanted no trial, if I understood Mr. Phillips. He wanted to go back because it would be better to go back in peace; it would save his back some stripes. (Sensation.) Of course it would save his back! I will admit that! Therefore he wished Mr. Loring to use his influence to get him back as soon as possible. Therefore the anti-slavery part of the community—I have nothing to throw out against them, some of them—I think some of them are figuring about for office and can be bought for six and a quarter cents a head. But the bigger part of them are honest I admit; and the Southerners are equally honest with them. Mr. Loring had sworn he would carry out and obey the Constitution, and he looked at this man, although there was some dispute in the testimony, as belonging to Col. Suttle; though it is a crime almost to acknowledge that you hold slaves. But we have a right under the greatest power beneath the heaven, that flag of which I am proud to say that I am one of its citizens. (Laughter)

But he has carried out the law; and because he has stood up to the law some of the gentlemen can find a great many holes in this matter, and say thus and so. Mr. Phillips quotes a great many authors to show that they shall be removed at the discretion of the Legislature; but I think it would be much better for this community to hold Mr. Loring in office, and some of his friends to tell him he better resign. (Laughter.)

By so doing, by doing good unto the man, you will heap coals of fire upon his head, says the good book. (Great laughter.) If you want to punish Mr. Loring for this act, continue him in office, and he will resign himself. (Renewed merriment.) But you can easier coax a man and lead him with a hair than you can drive him with a handspike. But it will be well to look to the welfare of this Union, both North and South, before you put your finger on to say you will remove Mr. Loring from the Judge of Probate. This thing cannot be healed for years.

There is one other thing that I could tell, but it is not the place to tell you now. The two parties are getting further and further from the great object, from the conciliating line, and men for the sake of office would cut our Union asunder.

This is one means. There are many ladies here,—and I hold the fair sex as the bond of union and the arch of strength, (laughter); but notwithstanding their sympathies are stronger, they know but little about the institutions of the South, having never been there. Uncle Tom's Cabin has come here and set up a southern man as being a monster wearing horns and hoofs, and they believe it. Well, there are some true things in Uncle Tom's Cabin, and considerable lie. These things are taken up by the leading men. They think they can make political capital out of them, and if this government is cut asunder they think they will come right into office. I am not in want of office, never expected it, never sought it, would not have any; but when I see a man crushed and the voices of the people against him for doing his duty, I for one will try to hold that man up. Now if my views are worth anything to this people, they are welcome to them, and if not, they are welcome to them.

RICHARD HILDRETH, Esq., next spoke at great length. We shall give the substance of his argument to-morrow, together with the response of Mr. Gitchell and the remarks of others.

CASE OF JUDGE LORING.

[Reported for the Boston Daily Advertiser.]

Sometime before the hour assigned for the hearing, yesterday afternoon, the galleries of the Representatives' Hall were crowded, and the Hall itself would have been filled if the Sergeat-at-Arms had not excluded all but members of the Legislature. There was a great crowd of people outside waiting to be admitted, and at three o'clock, when others besides the members were permitted to enter, the Hall was immediately filled, and many of those who sought admission could not secure it. This great crowd of spectators had been attracted to the hearing partly by the unauthorized announcement, in some of the papers, that certain well known gentlemen were to appear before the Committee as Judge Loring's counsel. This announcement was entirely unwarranted.

The first thing done, after the Committee was called to order, was to swear certain gentlemen who had been summoned to appear as witnesses to certain facts relative to the Burns case, stated by Mr. Wendell Phillips in his speech at the previous hearing. These gentlemen then gave their evidence as follows.

Mr. Robert Morris, (the colored lawyer,) testified —I reside at Chelsea; on the morning of the hearing of the Burns case before Judge Loring I was sent for; when I went into the court house, Mr. Dana was talking with Judge Loring, trying to get a postponement of the case, and Mr. E. G. Parker and Mr. Seth J. Thomas were urging immediate action; then one paper was read and the case was proceeding rapidly; Mr. Dana again warmly urged postponement, and also Mr. Ellis; after that Judge Loring called Burns toward him and talked with him; it was then decided to postpone the case; I was present at the Shadrach case; that case was not hurried like the Burns case, although there was a good deal of hurry about that; the impression I had of the Burns case was that the claimant was anxious to hurry the case, and that Judge Loring hurried it as much as circumstances would admit; I think Judge Loring hurried the case no more than any other commissioner would have done; I never knew a case of murder so hurried in court; cases are never so hurried in the Municipal Court; Burns had no regular counsel at the time to which I have referred; I had been sent for, and, as I supposed, to become his counsel; I was not permitted to speak to Burns.

Mr. Wendell Pillips testified—On Friday, the day after Burns was brought before Judge Loring, I visited Burns; the case had been postponed to give Burns time to decide whether he would employ counsel; Marshall Freeman refused me permission to see Burns, and said that no one but Mr. Dana should see him; Mr. Dana refused to see him unless I or some other person should see him first; then, at Mr. Dana's request, I went to Judge Loring for an order permitting me to see Burns; he wrote an order, and as he handed it to me across the table, he said, "Mr. Phillips, I think this case is so clear that you would not be justified in placing any obstacles to this man's going back, as he probably will;" he said nothing more on the subject.

Rev. Theodore Parker testified — I have a document which was placed in my hands by Mr. E. G. Parker, who was counsel for the kidnapper, in the Burns case; it is a bill of sale, drawn by Judge Loring for the sale of the man Burns by Col. Suttle; Mr. E. G. Parker came to my house on Saturday night after Burns was arrested, and stated to me that there was then in progress an effort to effect the sale of Burns; this bill was drawn by Judge Loring on that night; Mr. E. G. Parker afterwards gave me the document; he said that Judge Loring drew it; it appears to me to be his hand writing, although I am not an adept in such matters; it is dated May 27, 1854. [Mr. Parker read the document, and it purported to be a bill of sale, by which Col. Suttle, in consideration of a given sum of money to be paid him, engaged to sell Burns, give up his claim to him, and allow him to be manumitted.]

The principal speaker before the committee was Mr. Richard Hildreth who made an elaborate speech, ably prepared and well supplied with his characteristic severity of expression, but badly delivered. It did not command the attention of the audience.

Mr. Hildreth said it was entirely a mistake to suppose that this was a case between the petitioners and Judge Loring, it was a question of public interest, in which the petitioners have appeared in behalf of the State. Judge Loring's personal interest in his office was comparatively a trifling matter. The remonstrants against his removal place the question on general grounds. He said the public was interested; the slaveholders had an interest in it, and it was very proper that they should be heard; the friends of the fugitive slave act in Massachusetts had an interest; it was entirely a public question.

He said that the 940 remonstrants against the petitioners had taken the ground, that to remove Judge Loring for an act not done in his official capacity, and not prohibited by law, would be to invade the independence of the judiciary; but they could not maintain this ground. According to the Constitution, judges are the agents and substitutes of the people; and have we no right to change our agents and return them to private life, as the Constitution provides? Certainly we have such a right. The Constitution of Massachusetts requires a good deal more of the officers under it, than mere conformity to the law; and the people have a right to demand a good deal more. When these 940 remonstrants take the broad ground indicated in their remonstrance, they take ground against the Constitution. He said, suppose Massachusetts were adjoining a slave State, and a Judge of Probate were to own a plantation of slaves over the border, and go over every night to play the tyrant and profligate, would these remonstrants say that the people would be compelled to tolerate him, and that he could not be removed from office? Or suppose that Mr. Loring were the guardian of children in Boston, and as such should turn some poor family into the street, to be frost bitten and die, and should do it in their behalf strictly according to law; would it be said by these remonstrants that the people would tolerate him as Judge of Probate? The ground taken by the remonstrants is in the very face and eyes of common sense.

He said that Judge Loring's remonstrance was evidently drawn by the advice of counsel, and that it presented, not merely his case, but the case of all the "slave catchers" in Massachusetts; and he argued that it was comparatively unimportant, whether in the Burns case Judge Loring was very pleasant and polite or very hard and severe; for the great fact was that he had acted in that case at all. He said that Judge Loring's remonstrance indicated that he desired to be removed, and that he intended deliberately to take ground that would compel the legislature to remove him; and therefore that his removal would be as satisfactory to him as to the people. This Mr. H, thought would fully appear before the proceedings were ended. He reviewed some points in Judge Loring's remonstrance particularly what it says of the appointment and duties of U. S Commissioners. He referred to the law of 1843 to show that in the Burns case Judge L. had really violated the law of the State, and then said that Judge L. had not been content to come here and say he had violated no law. He might have said "I mistook the will of the people, and now I will resign my Commissionership;" but instead of this, he says he will retain that office, and that you, the people, are perjured scoundrels if you do not all of you act as slave catchers; and this was the doctrine which the Legislature would endorse if it did not remove him. He knew you would not endorse it; he desires to be removed; he desires to be a martyr for the fugitive slave act, because such martyrdom may lead to some well paid federal office.

The concluding portion of Mr. Hildreth's speech was on the judiciary. He insisted that the independence of the judiciary was not in danger from popular sentiment, but from influences apart from the people, which sought to control public opinion and action. He said that the Supreme Court of Massachusetts in its decision of the case of Simms was controlled by the peculiar condition of politics in State street at that time, when Daniel Webster was expecting to be the next President, and when State street was crazy on that subject, and would have burned a negro in the street, if this had been necessary.

Hon. Amasa Walker spoke briefly and said, it was time for Massachusetts to do something to assert her rights and sovereignty as a State. She ought to have done it when Mr. Hoar was expelled from Charleston, but it was not done then because it was deemed that it would injure a certain political party and hurt the prospects of a particular aspirant for the Presidency. The people generally now expected such action; they expected both the removal of Judge Loring and the passage of a bill to protect personal liberty. There was now "an insurrection of thought against authority," and it demanded these measures.

The remainder of the hearing had but little to do with the case before the committee, and was nowise dignified or becoming. There was present a coarse, ignorant man who gave his name as John W. Gethell, and professed to be a citizen of Alabama, the owner of fifty slaves. He put himself forward to discuss the slavery question, and was permitted to address the committee. He had already spoken before Mr. Hildreth's speech, and now he thrust in another speech. When he sat down, Lewis Hayden, a colored man of this city, and formerly a slave, was put forward to reply to him. Abby Folsom also, who was present, went forward to get an opportunity to take a part in the discussion, and would probably have spoken, if the committee had not adjourned.

Before the adjournment, notice was given that there would be another hearing on Tuesday next, at 3 o'clock in the afternoon.

The *Courier* calls the hearing before the Committee on the case of Judge Loring, a farce; and is rather severe on Mr. Getchell, the gallant Southernor, who so generously came forward to defend the judge, unterrified by the frowns and jeers of the congregated abolitionists. The *Courier* should have more magnanimity than to be ashamed of its allies, merely because of a few peculiarities in grammar and rhetoric. Mr. Getchell has as good a right to try and save the Union as Mr. Curtis or Mr. Hallett. He did his best, which is all that any man can do.

The *Journal* says of the Loring hearing yesterday:

"If committees of the Legislature wish to give public 'exhibitions' for the amusement of a promiscuous assemblage, it would be well for them to continue such 'hearings' as the one that was held yesterday afternoon; but if they wish to preserve in the public mind any respect for themselves or their deliberations, they owe it to themselves and to the people they represent, to take *effectual* measures to prevent a repetition of such proceedings."

The Committee are not to blame for the character of the speeches made to them. They invite Judge Loring's friends to appear in his behalf and listen to them with attention and respect. It was not their fault that the person who yesterday pleaded the cause of Judge Loring spoke foolishly, and provoked universal laughter and derision.

Removal of Judge Loring.—The New York Journal of Commerce says:—

The question before the Massachusetts Legislature whether Judge Loring shall be removed from his Judgeship for adjudicating, as U. S. Commissioner, upon a case arising under a law of the United States which the Supreme Court of Massachusetts have unanimously decided to be constitutional, is not yet disposed of. Should this outrage be committed, it would be a blow aimed at a faithful public officer, but it would fall, not principally upon him, but upon the independence of the Judiciary. If our Judges are to be swayed by every popular current, under penalty of removal from office, they will no longer deserve the name of Judges; and the citizen seeking justice, might about as well meet the popular current itself, or the natural expression of it—a mob—as to fall into the hands of such a Judge. Observation has taught us that there is no extreme of fanaticism to which men inoculated with the Abolition virus are not liable to run.

Anthony Burns.—A telegraphic despatch sent from Baltimore yesterday, said that the "fugitive slave, Anthony Burns, was in that city, on his way to Boston, his freedom having been purchased by a few Bostonians, at $1300."

BY TELEGRAPH TO THE NEW-YORK TRIBUNE.

CASE OF JUDGE LORING.

Special Dispatch to The N. Y. Tribune.

BOSTON, Wednesday, Feb. 28, 1855.

The second hearing, before the Legislative Committee on Federal Relations, upon the petition of the people for the removal of Edward Greely Loring from the office of Judge of Probate, took place in the Hall of the House of Representatives this afternoon. The avenues to the Hall were thronged with people long before the doors were opened, and not half of them could gain admittance.

Notwithstanding the great flourish of trumpets made by the press, that Hallet, Curtis, and other kidnapping-counsellors, were to appear in defense of Loring, not one was present.

Robert Morris, Wendell Phillips, and Theodore Parker, were severally sworn, and testified to the fact that Loring hurried the case of Burns in an unjustifiable manner; that Mr. Morris, when sent for as counsel, was not permitted to speak to Burns; that Mr. Phillips was also refused until the day after the arrest, when he went to Cambridge and obtained a permit to visit Burns; at that time Judge Loring said to him, "Mr. Phillips, I think this case is so clear that "you will not be justified in placing any obstacle "in the way of this man's going back, as he prob-"ably will." Theodore Parker testified that before the case was concluded, the junior claimant called upon him, and asked him to give money for the purchase of Burns, and afterward showed him a bill of sale of Burns, drawn up by Judge Loring himself, while the case was pending. [This document was exhibited to the Committee.]

At the conclusion of the testimony, an opportunity was given for the remonstrants to be heard, but, no person appearing, Mr. John W. Gitchell, of Jacksonville, Benton Co., Alabama, who claims to own fifty human beings, arose and said,

that circumstances had brought him to that place to defend one of his countrymen—Judge Loring—whom there was not one to defend. He believed the present attack on Loring was got up for agitation, and thought he, Loring, had a right to draw up a bill of sale "for the freedom of his "countrymen." He thought the State had better not remove Mr. Loring, but some of his friends had better advise him to remain. He said the South was watching with jealousy the action of Massachusetts in this case. He was a State-Rights man; willing to let Massachusetts make her own laws, and was in favor of free thought in all nations.

Lewis Hayden, a fugitive slave, followed, and gave Gitchell a severe castigation.

Richard Hildreth made an able argument, showing that the Legislature has good cause for the removal of Loring, inasmuch as he violated Massachusetts law, which prohibits any officer of the Commonwealth from aiding, in any way, in the return of a fugitive from Slavery; that Mr. Loring, in his remonstrance, compels the Legislature either to remove him, or indorse the Fugitive Slave Law; that he is desirous of becoming a martyr, because he knows that the United States Government stands ready to reward him with a fat office.

Another hearing will be had on Tuesday next, when Richard H. Dana, Jr., will appear as counsel for the remonstrants.

It is reported that Hallet and the Curtises have subscribed liberally for the purchase of Burns, (who is now on his way North,) for the purpose of making a witness of him for Loring. If this is true, they cannot do a better work for Freedom.

A large number of the Irish population are about remonstrating against the removal of Loring.

N-YORK SEMI-WEEKLY TRI

THE JUDICIARY IN DANGER!

The people of England have, in times past, been often deluded, and led to gross sacrifices of their liberties and their rights, by that old cry of terror—not yet entirely disused there—the Church in danger!

That same cry has often had no little influence in this country, especially in New-England; but of late years (till the recent outburst of Know-Nothingism) we have been content to let the Church take care of itself, without the aid of any political action to protect it. Men, however, are not easily broken of idolatry, nor of the habit of tormenting themselves and others with panic terrors, and as a substitute for the cry of the Church in danger, the political Puseyites, especially about Boston, have got up another cry very much like it, and that is—the Judiciary in danger! And this cry is raised long and loud on all sides—and that, too, even by such excellent Dorr-rebellion Democrats as Benjamin F. Hallet—at the proposal, in the Legislature of Massachusetts, to address Judge Loring, United States Slave-catching Commissioner, out of his State office of Judge of Probate for the County of Suffolk.

It is pretended that the security of "property" does it necessary to wink at a great many things in the conduct of a Judge; and that the removal of Judge Loring, merely for helping a slave-holder to his "property," would, to use the alarming words of the frightened *Boston Daily Advertiser*, "strike a blow at the independence "of the Judiciary, which, if repeated, will shat-"ter the whole fabric of our republican insti-"tutions!" In their action upon the question of removing Judge Loring, the Legislature, Governor and Council of Massachusetts, must, of course, be governed by the Constitution of Massachusetts; and as that is a document with which these frightened gentlemen, whether in Massachusetts or out of it, do not seem to be very familiar, we propose briefly to show what view the framers of that instrument took of the tenure of the judicial office, and how careful they were, in guarding the independence of the Judges, not to imperil the liberties and rights of the community—the end alone for which this much talked-of independence of the Judiciary was desired—that independence being only a means to which the end itself (to wit, the public welfare) was by no means to be sacrificed. The great principle upon which the whole Massachusetts frame of government is founded is laid down in the fifth article of the Bill of Rights, as follows:

"All power residing originally in the people, and being derived from them, the several magistrates and officers of Government, vested with authority, whether legislative, executive or *judicial*, are their *substitutes and agents, and are at all times accountable to them.*"

In Massachusetts there is no property in office, nor perpetuity of office. All office-holders, Judges included, are "agents and substitutes" of the people, accountable at all times to their principals. And in conformity to this great doctrine, the 8th article of the Massachusetts Bill of Rights declares that—

"In order to prevent those who are vested with authority from becoming *oppressors*, the people have a right *at such periods, and in such manner* as they *shall establish by their frame of government, to cause their public officers to return to private life.*"

In order to guard against the curse of such magistrates, and to carry out these principles of holding all magistrates and officers accountable to the people "at all times," and of causing them, "at suitable times," to retire to private life, the Constitution provided, in all cases of misconduct and maladministration in office, for removal by impeachment. As a means of meeting all other cases of deficiencies, insufficiencies or malfeasance—including the capital one of being no longer satisfactory to the people—it provided, in the case of all executive and legislative officers, the very sufficient remedy of short terms of office (generally annual) and frequent reëlections and reappointments, thus giving the people, or the agents of the people, the opportunity of quietly dropping those with whom they were not satisfied.

In the case of judicial and superior military officers, the appointment for a fixed term, and the necessity of frequently re-soliciting the votes of the people did not seem so suitable. It was, therefore, provided that they should hold their office for "good behavior;" but this did not release them from their accountability, "at all times," to the

people. The Legislature, conjointly with th Governor and Council, were made as represen tatives of the people for that purpose, absolut judges, without notice, argument or appeal, o this matter of good behavior—being vested wit just as absolute a discretion in the removal of al judicial and high military officers—the Legisla ture voting the removal by address, and the Gov ernor and Council making it—as the Executiv has to remove all executive officers who hol office at his pleasure.

The idea that a Judge, once in office, has th liberty of doing as he pleases, and, so long as h commits no impeachable or indictable offense, o setting the public sentiment at defiance;—th idea that a Judge is not accountable to the peopl at all times, and for all parts of his conduct, an that under the guidance of a fanatical or a de luded conscience, he can be permitted, as th servent or agent of another Government, t perpetrate, under the forms of law, what th majority of the people of Massachusetts regar as a base, detestable, and dastardly crime (which, but for the intervention of this exterio power, in whose behalf it was done, would sen its perpetrator to the penitentiary,)—thes pusillanimous and pitiable ideas never entere into the heads of the good men and true, b whom the Constitution of Massachusetts wa framed; and we trust and hope they will have n influence upon the conduct of those by whom as to this matter of Mr. Loring, that Constitutio is now to be administered.

The Constitution of Massachusetts never mean to make Judges equivalent to kings. It neve meant to give them an absolute tenure of offic for life, with no accountability for blunders however gross, or for moral delinquencies, how ever enormous. It never intended to allow then to set up the plea of conscience as an excuse fo trampling under foot the moral sense of the com munity. It intended that the Judges should liv in the fear of the Lord, and as the best securit for that, in the fear of the people also. It mean that this power of removal should hang over thei heads, suspended like the sword of Damocles, b a single hair, ready at any time to pierce and t annihilate the insolent, or the deluded misbe liever, who should presume to oust God from hi throne at the bidding of a Congress, and man o his rights at the bidding of a Court.

The occasion having come for that sword t fall, the execution done by it will be salutary The idea that Judges are above the people, an not accountable to them, seems sadly to hav turned the heads of some who occupy the bench The benefit of the example will not be confine to Massachusetts. Let the sword of Damocle fall; it cannot fail to do something, in ever Northern State of the Union, toward makin sober more than one drunken and insolent revele

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[For the Evening Telegraph.]

The Removal of Judge Loring.

The people of Massachusetts were very much incensed at the rendition of Anthony Burns. To most of us slavery appears as incapable of becoming a legal institution as highway robbery, piracy, or murder. The irrepealable law of God makes every man the owner of himself. Slaveholding may be sanctioned by long continued practice, by statutes, and constitutions. But the practice is always a crime, and the statutes and constitutions null and void. Hence the slaveholder always appears to us a man-thief, and all his aiders and abettors, be they magistrates, marshals, or simple citizens, are in our eyes, criminals. If we were judges or commissioners we should see our duty clearly and strongly to discharge every runaway slave brought before us, even if we believed (as I for one do not) that the constitution of the United States imperatively called for his surrender.

Deeply sympathising, then, with the feeling that has poured petitions into the legislature for the removal of Judge Loring, I am yet bound to say that I cannot concur in the object they propose. The complaint against him is not for any misconduct or incompetency as a magistrate of this State; but for his conduct as United States Commissioner, in surrendering Anthony Burns, an act which it is urged, so outraged his fellow citizens that they can no longer tolerate him as Judge of Probate.

Abhorrent to us as this act was, it is but justice to Judge Loring to believe that in performing it, he was governed by a sense of duty and official responsibility. His views of duty in this respect, no doubt, differ from ours as widely as pole from pole; yet it is not easy to see how they unfit him for a probate judge. Ought he then to suffer punishment for a decision which he regarded as legal, and felt himself bound to make? No person acting in a judicial or qaasi-judicial capacity, ought to be subject to any penalty for a mere error of judgment, whether it regards law or fact. The judge and the juror are equally protected by this principle. To remove a judge from the bench because he has offended the king by his decisions, and to fine and imprison jurors for honest verdicts, shock us as exercises of arbitrary power, that tend to prostrate all independence of thought and action in those who are subject to such tyranny. Whether the decision of the judge or the juror be right or wrong, he ought to be subjected to no penalty for it, unless his conduct has been wilfully corrupt. So it ought to be with the Commissioner.

But it is said, Judge Loring violated the spirit of the Latimer law. That he did not violate the letter of that law, is conceded on all hands. That statute only prohibited State magistrates from officially taking part in the enforcement of the fugitive act of 1793. It did not, as it might and ought to have done, prohibit State magistrates and officers from holding any office under the United States. Whether Judge Loring violated the spirit of the statute, is a nice question of casuistry that I will not stop to discuss. But it seems to me, it would be a most arbitrary exercise of power to deprive him of his office on this charge,

when it is apparent that he had no design of violating any law. Nothing but a wilful intention of violating law and doing injustice, could merit such a retribution.

The strong anti-slavery sentiment now aroused in Massachusetts, has been gradually growing for years. Some of those now desiring Judge Loring's removal, would, a few years ago, have approved his course in the Burns case. Can they think it reasonable to inflict so severe a judgment on him, because their consciences have become more rapidly enlightened than his? Though the majority of the people of Massachusetts regard the surrender of a fugitive slave as a heinous wrong, yet there are many persons in the State, upright and conscientious, who still consider such a surrender a positive duty, however painful it may be. While the public mind is in this position, the rendition of a slave ought not to be regarded like the offence of robbery or murder, about which there is no controversy. When the conscience of the majority is expressed in plain statutes, then the minority must submit to the consequences if they dare disregard the expressed will of the people.

To deprive Judge Loring of his office would be to inflict a penalty by an *expost facto* law for an act prohibited by no statute of the State, but enjoined by a statute of the United States when it was done —a proceeding altogether at war with our constitution as well as the first principles of justice.

No. Let us leave Judge Loring alone; and pass a law to operate in future, which shall forever prevent all licensed man-hunting in Massachusetts. Let us declare the fugitive slave act null and void, and that Massachusetts owes no obedience to it; forbid her magistrates and officers from aiding in its enforcement in any capacity, under penalty of losing their offices, and render those who transgress forever ineligible to any others. Give every hunted man the benefit of the habeas corpus and trial by jury. Let us prove that we at last understand the lesson, that South Carolina, Georgia, and the other slave States have been teaching us for sixty years, that the people of every State when united, can for all practical purposes annul any act of Congress which they regard as unconstitutional.

Nothing could be more impolitic than to remove Judge Loring, for his obnoxious opinions, in the way proposed. So easy a precedent would be sure to be followed. The heroic judges of Wisconsin, who have nullified the fugitive slave act, in that State, might well tremble if a Whig or Democratic legislature was in power there, and adopted the idea that judges who held unpopular sentiments ought to be removed by address. If this principle be admitted, every legislature in its turn would ostracise all political opponents within its reach, till the power of legislative removal became as odious and corrupting an engine of party despotism as the power of removing officers has proved in the hands of the President of the United States.

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The Removal of Judge Loring.

On our first page will be found an article from a correspondent protesting against the removal of Judge Loring. We have not space to-day to reply to it at length, nor perhaps does it need much comment. It is clear that the mind of the writer is obscured in this matter by prejudices on the subject of the judiciary. The real basis of his reasoning, as of that of most of the defenders of Judge Loring, is a superstitious reverence for judges as an order of men too sacred to be approached by the legislature or the people. In that superstition we do not participate, although we claim to be actuated by a just and proper respect for the judiciary. To arguments dictated by such a superstition, we therefore cannot reply, except by an examination of the causes to which it owes its existence.

We cannot, however, suffer our correspondent's article to pass without protesting against the assumption that the popular movement for the removal of Judge Loring is merely an attempt to *punish* that gentleman. It has a far higher aim than the mere punishment of an individual offender. It is a movement to vindicate the honor and dignity of Massachusetts, not only in the present, but in future ages. The removal of Judge Loring would stand in our annals as an eternal testimony of the Commonwealth against slavehunting. It is the only means left to Massachusetts by which she can wash her hands of the disgrace and crime of the surrender of Anthony Burns. To that end is it urged, and not to punish Judge Loring. We do not believe that personal considerations have any weight in the matter.

In the House of Representatives this morning, Mr. Pierce of Boston presented a remonstrance, signed by over nine hundred citizens, against the proposed removal of Judge Loring.

Removal of Edward G. Loring.

The people of Massachusetts have pretty good memories. Some few of them can remember the revolutionary war; a much larger number recollect the Missouri Question of 1820. Very few have forgotten the annexation of Texas, the Compromises of 1850, or the Nebraska Bill. But the rendition of Anthony Burns was an event which made a more profound impression on the people of this State than any which has occurred for many years. The friends of the individual who acted the chief part in that tragedy, and who set in motion its whole machinery of horror, seem to be astonished that our citizens should keep alive the memory of that transaction for so long a time as nine months. Mr. Loring himself evidently retains so faint an impression of the "Days of June," as to be able to sit on his own conduct at that time with an air of cool and historic impartiality. This is shown by the entirely technical character of his remonstrance to the Legislature.

The amount of that remonstrance is this—"I had no official and documentary notice from Massachusetts that she was disinclined to have her magistrates catch fugitives; and therefore I did it. There was no statute on her records which reached quite up to my case, so I did it, and, with all due respect, I rather think I came round her handsomely."

The spirit of this plea smells of the mock auction rooms; and has a strange flavor of wooden nutmegs. If Mr. Loring had said that he ought to be let off because his name was Edward F. Loring, while the petitioners asked the removal of Edward G. Loring, his plea would have gone just as deep into the merits of the case, as now. He sets up a mere flaw in the indictment.

The people of Massachusetts have not charged him with an indictable offence. The allegation is that holding a commission from them, which bound him to preserve and defend the honor and dignity of the State, he has consented to be made the instrument by which that honor was outraged and that dignity trampled under foot. It avails nothing to urge that Mr. L. thought he must do so, or violate his oath. We have often heard, by the way, of persons who found it *difficult* to resign office; but his is the first case that has passed under our notice of a man's thinking it *perjury* to resign. No reason has been given for Mr. L.'s not following the noble example of other Commissioners in this respect.

If Mr. Loring does not think it infamous to catch negroes, Massachusetts does; and that is just the difference between the two. If Mr. Loring had no notice of the opinion of Massachusets on this point, and no notice of her disinclination to have her magistrates engage in that business, then Mr. Loring's senses are not sharp enough for a Judge.

One paragraph of Mr. Loring's remonstrance to the Legislature is this, and it contains his whole defence:

"And I respectfully submit that when (while acting as Commissioner) I received my commission as Judge of Probate, no objection was made by the executive of the Commonwealth, or of any other branch of the government to my further discharge of the duties of a commissioner, nor at the passage of the act of 1850, when the jurisdiction aforesaid was given to Commissioners of the Circuit Courts of the U. S., nor at any time since, was I notified that the government of Massachusetts, or either the executive or legislative branch thereof, regarded the office as incompatible," &c.

Now the fact is that just so soon as the Prigg case decided that the States could prohibit all State officers from catching negroes, Massachusetts passed an act for this purpose. That act (approved in March, 1843,) prohibited all Judges of any court of record, all Justices of the Peace, all Sheriffs, Deputy Sheriffs, Coroners, Constables, Jailors, "and other officers of this Commonwealth" from having any thing to do with the Fugitive Slave Act of 1793, the only one then in existence. Mr. Loring was a Justice of the Peace at that time. And yet he would have us believe that the act of 1843 gave him no hint that Massachusetts considered it disreputable for her officials to return fugitives. The fact is, that by her act of 1843, Massachusetts proclaimed to the world her opinion that negro-catching was incompatible with holding State office. Mr. Loring knew that to be the settled conviction and determination of the State. It makes no difference whether he was "notified" under the Fugitive Slave Act of 1793 or 1850. For those acts are one and the same thing. The Fugitive Act of 1850 is part and parcel of the other. Its title is as follows:

"An Act *to amend, and supplementary to* the Act entitled," &c.

That is, the Fugitive Slave Act of 1850 is simply an addition to that of 1793. It has been decided that it does not repeal any part of the old Act. It stands together with it; and forms a single statute. Is not Mr. Loring, therefore, indefensible, even on his own narrow and technical ground?

But the case is not one for quibbles. Whenever a judicial officer calmly and deliberately outrages the well understood moral sentiments, and coolly violates the noblest instincts of the people who have placed him in commission, then self-respect demands on their part an exercise of sovereign power. No matter whether he has brought himself within the letter of any statute or not. Many an atrocious act is unforbidden by human laws. Hard-hearted landlords turn starving and freezing tenants into the street. The law permits it. Wolfish creditors incarcerate innocent and unfortunate debtors in jail. Laws specially authorize it. Southern overseers whip girls till the blood flows to their heels. The law allows it. These acts break no statute, and those who do them are not (to use Mr. Loring's word,) "notified" by the government to refrain from them. Yet deeds like these are nothing compared with the crime of crushing a man into a beast. To make a man a slave is to inflict upon him the worst of all injuries. That it is done under the forms of law makes the wrong no less. Grant, for argument's sake, that it can be made legal to enslave. It is infamous; it is abominable. And any man who needs to [illegible]

Evening Telegraph.

Removal of Judge Loring.

SECOND HEARING—IN CONTINUATION.

We give below an abstract of the argument of Richard Hildreth, Esq., and the remarks of others on the second hearing before the Legislative Committee, in the case of Judge Loring.

Mr. Hildreth said that this was by no means a private question between the petitioners for the removal of Mr. Loring on the one hand and Mr. Loring himself on the other. The petitioners did not appear before the legislature in their private capacity as individuals, but in their public character as citizens; and they asked the removal of Mr. Loring, not for any griefs suffered by themselves individually, but on behalf of an aggrieved Commonwealth, in the name of which they spoke.

On the other hand it was not Mr. Loring alone, who might be supposed to have an interest in resisting, and who were entitled to be heard in opposition to the petitions. The slaveholders of the United States had an interest in the question—and it was on that ground that he (Mr. H.) had insisted upon the right to speak of the person who had preceded him, and who professed to be a slaveholder from Alabama. The slave-catchers of Massachusetts had also an interest in this matter, and a right to be heard upon it. It had been stated in the newspapers that they were to be represented before the committee by the U. S. Attorney for the District of Massachusetts. It was impossible to have selected a person better fitted to speak for them. Mr. H. would have been pleased to meet him here, but he did not seem to be present. Perhaps he thought (and if so Mr. H. agreed with him) that all that would be said in behalf of the slave-catchers, was said in Mr. Lorings's remonstrance, and that nothing could be added to it. Then there were 940 very respectable men, chiefly of Boston, who had petitioned against the removal of Mr. L. on what Mr. H. supposed they would call "conservative" ground. They were entitled to be heard, and it was stated that eminent counsel [Mr. Dana] had been retained to appear for them. They, however, had themselves set forth in their petition the ground on which they relied—a ground not personal to Mr. L. by any means;—they did not justify his conduct, but they laid down a general prin-

ciple upon which they put the case, as to which he [Mr. H.] should have a few words to say. That proposition was this—that "to remove a judge for an act done in another capacity, and not prohibited by law, is in our judgment, an attack upon the independence of the judiciary, and is not within the just and true interpretation of the institutions of Massachusetts." But this was not a tenable position as the very petitioners themselves must upon reflection admit. In this matter we must be governed by the Constitution of Massachusetts, and let us see what that instrument says with respect to the duties of officers and their removal from office. It will be found that Massachusetts requires something more of her officers than merely correct official conduct and abstinence from things prohibited by law. The great principle with respect to office holders and their character, duties, and rights, is laid down in the 5th of the Bill of Rights. "All power residing originally in the people, and being derived from them, the several *magistrates and officers of government* invested with authority, whether legislative, executive, or *judicial*, are *their substitutes and agents, and are at all times accountable to them.*"

Mr. Loring is a "substitute and agent" of the people of Massachusetts, and being such they have an interest in, and in some sense, a responsibility for his conduct out of office as well as in. What right-thinking man would wish to retain, as his "substitute and agent," a person, who, though correct enough in the transaction of his business, had disgraced himself by infamous conduct towards others, even though in thus infamously behaving the man had kept within the limit of the law?

Against *oppressive* conduct on the part of those in authority (Judges included) even though it might trench upon no positive law, the constitution of Massachusetts is carefully on the guard. The 7th article of the bill of rights provides that "In order to prevent those who are vested with authority from becoming *oppressors*, the people have a right, at such periods and in such manner as they shall establish in their form of government to *cause their public officers to return to private life.*

And the constitution not content with prescribing certain official duties for each office, has laid down certain general rules of conduct out of office as well as in office, to which it requires all magistrates to conform.

Thus the 18th article of the bill of rights declares that a frequent recurrence to the fundamental principles of the constitution (one of which is that all men have a natural right to life, liberty and the pursuit of happiness, and another is the sacredness of the right of trial by jury) and a constant adherence to those of piety, justice, moderation, temperance, industry and frugality—(all of them hostile to slavery and slave-catching) are *absolutely necessary* to preserve the advantages of liberty and to maintain a free government. The people ought, consequently, to have a particular attention to all those principles in the choice of their officers and representatives, and *they have a right to require* of their law-givers and *magistrates* an exact and constant observance of them in the formation and *execution* of the laws necessary for the good administration of the Commonwealth.

And further, by the 2d section of the 8th chapter of the constitution, it is made the duty of legislators and *magistrates* to "countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality, honesty and punctuality in their dealings, sincerity, good humor and all social affections and generous sentiments among the people." Now, which of these duties thus enjoined does slave-catching, under the act of 1850, so justly hateful to the people of Massachusetts, tend to promote?

This is the tenure by which office is held in Massachusetts, judicial office as well as others, and to meet the case of the non-performance of the duties thus enjoined, the constitution has vested in the Governor and Council the summary power of removal on the address of the Legislature, the exercise of which is asked in this case.

Let us see whether it is not easy to put cases in which a judge not misbehaving in office, and not violating any law ought yet to be removed. Suppose Massachusetts happened to be like Pennsylvania and Ohio, a border State. Suppose Mr. Loring to live near the line, and not content with catching slaves, to choose to set up as a slaveholder, to buy a plantation over the border, and to spend his Sundays in flogging his male "niggers," and in selecting from among the female ones new candidates for his favor—on week days acting in Massachusetts as Judge of Probate. Would Massachusetts tolerate such a judge? Would not he be removed by address? Or suppose that as guardian acting for minor wards, he turns into the street for non-payment of rent, a miserable unfortunate family who are frost bitten and half frozen in consequence. He might urge his legal right, he might urge his legal duty as guardian—but would that save him? Would the people of the legislature tolerate such a hard-hearted judge? Surely it were easy to suppose a multitude of cases, in which, though guilty of no official misconduct, and though not obnoxious to any law, a judge ought to be removed:—and the general principle of the 940 petitioners failing, of course their petition is to be laid out of the case.

There remained to be considered the remonstrance of Mr. Loring himself—his argument in writing on which he relied, ably drawn up with advice of counsel no doubt,—a paper which contained a great deal of matter. Mr. H. had examined it carefully, and he was happy to be satisfied that as to the point of Mr. Loring's removal there was no conflict of wishes between Mr. L. and those who had petitioned against him. Mr. H. had always been on friendly terms with Mr. Loring and he was rejoiced to feel satisfied that in appearing before the Committee to urge Mr. L.'s removal, he was urging the very that Mr. L. himself most desired. This was perfectly apparent from the remonstrance under consideration, in which Mr. Loring had advisedly and deliberately taken ground which left the Legislature and the Executive no choice except to remove him. He evidently wished to be removed; and in this respect Mr. H. certainly hoped he might be gratified, especially as the removal would be so agreeable to the great body of the people of the Commonwealth.

And here Mr. H. would take occasion to say, in relation to certain testimony put in before the committee to show that Mr. Loring had been hasty and harsh, had prejudged the case, &c., he could not consider that point as of the slightest moment. The petitioners had asked for Mr. Loring's removal, not because he had acted harshly, but because he had acted at all. The gist of his offence was that being Judge of Probate, he had consented to act as slave-catching commissioner. It might be granted that in the "extradition," as he called it, of Anthony Burns, he had acted throughout with the most perfect judicial decorum. He might have bowed Mr. Burns out of Massachusetts into into a Virginia slave jail with the same exquisite degree of propriety and politeness with which the slaveholders of Charleston had bowed Mr. Hoar and his daughter out of that city—that would not alter the matter a hair. The people of Massachusetts wanted no slave catcher in their service, no matter how formal and decorous. Mr. Loring's offence was not that he had executed the slave catching act of 1850 harshly, but that being an officer of Massachusetts he had presumed to execute it all. And now let us see what justification he puts in for having done so.

He says that being and having been for years a Commissioner of the United States, under the acts of 1812 and 1817 to "take bail and affidavits," he was appointed in 1847 Judge of Probate, and that between these two offices there was no inconsistency, nor any objection to their being exercised by the same person—which is true.

He then goes on to state that the fugitive act of 1850 transferred to these United States Commissioners jurisdiction in slave cases, for the reason, as he implies, that the Justices of the Peace in whom the act of 1793 had vested it were, or might be persons of dubious moral character and small legal attainments, liable to be bribed, and at liberty to charge, in the name of fees, what they pleased; whereas the Commissioners were removed from these "corrupting influences," being allowed no compensation, "except for merely clerical labor performed." This is a new and ingenious history of the act of 1850, only unfortunately it is not true.

Mr. Loring then goes on to say that he had no notice from the government of Massachusetts that they regarded these two offices of Judge of Pro-

bate and slave-holding commissioner as incompatible. If he did not have such notice, he has nobody to blame for it but himself. If from his diligent study of the acts of Congress, he had spared a few moments to read the statute book of Massachusetts, he would have found a statute (1843 Ch. 69,) entitled "an act further to protect personal liberty," enacted before he was appointed Judge, and in subjection to which he accepted that office, of which act the 2d section is as follows:

"SECT. 2. No sheriff, deputy sheriff, coroner, constable, jailor, *or other officer of this Commonwealth*, shall hereafter arrest or detain, or aid in the arrest or detention or imprisonment in any jail or other building belonging to this Common wealth, or to any county, city or town therein, of '*any person for the reason that he is claimed as a fugitive slave.*"

It was this very statute and others, in other States like it, that gave birth to the act of 1850; yet in the face and eyes of this statute, totally ignoring its existence, Mr. Loring presumes to come to the Legislature and say, that he had no notice of any objection on the part of Massachusetts to a Judge of Probate acting as a slave catcher! The first and third sections of this act refer particularly to the act of 1793, any slave-catching action under which, on the part of officers of Massachusetts, is prohibited under severe penalties. But the second section, it will be seen, is general, embracing not only the act of 1793, but all possible future slave-catching acts, that of 1850 included, and positively prohibiting any officer of Massachusetts from having anything to do with the arrest of any person, "for the reason that he is claimed as a fugitive slave."

And here you see, gentlemen, that the case is brought completely within the rule laid down by the 950 petitioners against Mr. Loring's removal. Here we have Mr. Loring violating an express and positive law of Massachusetts. According to the very doctrine laid down by those petitioners, he ought to be removed, and I have a right to claim that these 950 names be added to our list.

Mr. Loring further undertakes to justify his conduct by dragging before the legislature the decision of our Supreme Court in the Sims case—a procedure I am sure for which the Judges will not thank him, much preferring, some of them I am certain, to have that case as little protruded on the public attention as possible. And surely for my part, I would walk backward as piously as any one to shield that unfortunate decision from unnecessary observation. Nevertheless, with the most profound respect for the Judges who made it, I feel bound to say—it having been thus invoked by Mr. Loring in his justification—that in all the sixty volumes of the Massachusetts reports, there is not one case that will stand examination so badly as that. But by way of apology for the court, we ought to consider, Mr. Chairman, the circumstances under which that decision was made—not like most of our decision, after months or years of deliberation, but from the nature of the case, drawn up suddenly upon the spur of the occasion. There is a great deal of rather empty talk about the independence of Judges; but the fact is, very few Judges indeed rely solely upon themselves in the formation of their opinions. They look abroad for external enlightment and support. Many are in terrors at the idea of the influence of "pop lar sentiment" on our Judges. That our Judges have been and are influenced, and that they will continue to be influenced, I have no doubt; but it is not the mass of the people that they look to, nor is it all from that quarter that their judicial rectitude is in danger. What our Supreme Court looks to for aid, support and countenance in forming its opinions is not "popular sentiment," but State street sentiment. For a perfect understanding of the history of the opinions of our Supreme Court, it is necessary to know the course of opinion in State street. Now Mr. H. had nothing to say against State street *per se*. It was a highly useful and necessary institution of great authority on mercantile questions—though even in those, we, whom State street calls theorists, some times have the advantage of it,—but on questions of liberty and personal rights, and the honor and dignity rather than the profit or supposed profit of the Commonwealth, he would rather trust the decision of "popular sentiment."

In this lamentable Sims case, the Court, terrified at the idea of confronting the might of the United States, looked eagerly and tremblingly to State street for sweet counsel and hints as to the best course to be adopted. And what did it see there? Why, Mr. Chairman, it saw the tragedy of Macbeth being enacted there by one star, and some two thousand supernumeraries—two thousand State street brokers, bankers, merchants, manufacturers and traders, who had divided the part of Lady Macbeth between them. Webster was the Macbeth of this most unfortunate and lamentable performance. Not content to be thane of Glamis, thane of Cawdor—positions in which we all admired and honored him—in passing along the blasted heaths of Washington, some witch, some midnight hag, some Foote, had whispered in his ear the fatal words—"That shall be king hereafter!" And other hags and witches, here in Massachusetts had caught it up and repeated it. Who can stand out against such devilish temptations? Macbeth could not, Webster could not. Shakespeare in a few words has drawn them both.

——— Would not play John
And yet would falsely win,—

that, Mr. Chairman, you may see running through the whole of the Seventh of March Speech from the beginning to the end of it.

But whatever scruples Mr. Webster might have had, the Lady Macbeth of State state—Lady Macbeth in two thousand small pieces—had none at all. State street was mad. State street had eaten of the insane root. In fact, the Lady Macbeths of State street suffered under a particular delusion of their own. They realized the old story of the wife and children of the man who was appointed constable It was not Mr. Webster alone who was to be President. They were all to be Presidents! And the prospect of so much power and patronage had completely turned their heads. Certainly, Mr. Chairman, State street is neither cruel nor hard hearted. It would start back with horror from the commission of any unnecessary cruelty; but at that moment, had it seemed to be necessary in order to secure the favor and votes of the South, not merely to send back a negro to slavery, but to make a bonfire and burn one just in front, of the old State House, after the fashion of St. Louis.—State street at that critical moment was mad enough to have done it.

Such was what our unhappy Supreme Court saw in State street when they looked there for aid, comfort, countenance and dictation as to the opinion they were to deliver in the Sims case. Mr. Chairman and gentlemen, you must not expect too much of judges. This was a case that demanded the greatest intrepidity, and your Court is composed of old men. Courage, though sometimes as necessary on the bench as at the head of an army, is not the attribute of old men. For my part, I like the New York rule that fixes sixty as the age at which the judges shall retire. State street was mad, and the opinion in the Sims case was the faint echo of the madness of State street, with an attempt to give a reason for it;—and that reason was—precedent. Gentlemen, you have seen a frightened cat beset by mischievous dogs, on the top of a post, every hair bristling out in every direction, and the cat looking large enough to fill a bushel basket;—and yet the creature, claws, teeth and all, could easily be crowded into a quart-pot. That is a type of the decision in the Sims case. It looks formidable, but just give your Supreme Court the opportunity—and I trust the present Legislature will pass some laws that will give that opportunity to them—and, gentlemen, you will be surprised to see through how very small a knot hole that decision will be drawn, and how very little after that process there will be left of it! The whole of that decision is contained in the following passage—"We are not entitled to consider this a new question, we *must consider it settled and determined by authorities*, which it would be a dereliction of official duty, and a disregard of official responsibility to overlook"—as to which I have two things to say, first, that from the "noise and confusion" prevailing at the time, and the haste in which that opinion was made up, not permitting due investigation and reflection—this statement, as a matter of fact, is not true. Not one of the great points taken against the validity of the Act of 1850 has ever been solemnly argued and specifically decided by any authority bind-

ing on the Supreme Court of Massachusetts. And secondly, that in the case of decisions of the Supreme Court of the United States not merely infringing upon the State rights of Massachusetts, but *shocking the moral sense of her people*, it is the duty of her Supreme Court to present the case for re-adjudication ninety and nine times over, and in the mean time to be governed by their own consciences and common sense, and not by a decision not merely questionable in law but detestable in morals. For my part I even no more regard the decision in the Sims case or the law of the land than I do the decision of Chief Justice Stoughton and his very respectable colleagues in the famous witchcraft case. Both decisions were but the echo of a prevailing timidity and delusion.

But after all, after having with great parade lugged in the Supreme Court of Massachusetts, and the decision in the Sims case, as if he would skulk behind them—or rather use them as a fort from which to carry on war against the laws and moral sentiment of Massachusetts—Mr. Loring can find nothing to his purpose in the decision itself, but is obliged to quote from the note appended to it, the mere private views of a private individual, which the Judge who drew up the opinion—as if conscious that it was too weak to stand alone—has seen fit to add to it by way of buttress.

Nevertheless, I should be willing to concede to Mr. Loring the benefit of the same excuse which I have urged in behalf of the Supreme Court of Massachusetts. It may be supposed that Mr. Loring, playing his part with the rest of the State street mummers, fell asleep and did not wake up so soon as the rest of us. It may be supposed, as was probably the fact, that in acting as Commissioner in the case of Burns, he mistook the sentiment of Massachusetts—was totally unaware of the great change in public sentiment that had been going on. Now if in his remonstrance he had said that, and have added, that finding out what the sentiment of Massachusetts was, he had resigned his commission as slave catching commissioner, and washed his hands of the whole business for the future,—I for one should no longer have pressed his removal. But so far from doing that, he takes a position which evidently shows his intention to leave the Legislature and the Governor and Council no choice except to remove him. He has the audacity and impertinence, perhaps I ought rather to say, the wrong-headed fanaticism to declare, that his very oath as Judge of Probate, in which he swears to support the constitution of the United States, compels him to act as a slave catcher; so that even if he should resign his office of commissioner, or be turned-out of it, he would still feel compelled, by his oath of office as a Judge of Probate, if a slave case occurred, to enlist into Marshal Freeman's brigade of cut-throats, and help escort him down to the vessel. He does not say this in so many words, but what he does say amounts in effect to this. It is his first and chief duty, so he thinks and says, as Judge of Probate, (let alone his office as commissioner) to act as a slave catcher; and that is the doctrine he calls upon you to endorse, and which, if you do not remove him, you will endorse. Of course he don't take the Legislature, Governor and Council to be fools. He does not expect that you are going to take all the obloquy and odium of his conduct upon your shoulders, leaving to him all the honors, profit and rewards, and the credit beside of having kicked Massachusetts into her duty. He expects you to remove, he intends you shall remove him. He does not mean to leave you any alternative. He has complained formerly to the legislature that the duties of Judge of Probate were onerous, and the pay small. He is now evidently a candidate for another office, under another government, with less work and more pay; and to help him get it, he wants to be turned out of the employment of Massachusetts—a "painful duty on your part," as he says in his remonstrance, in speaking of his own "extradition" of Burns—but one imperative, of which the pain will be alleviated, gentlemen, in your case, as in mine, by the consideration that we are only doing just what Mr. Loring wishes to have done.

And truly, gentlemen, here is one of those cases in which, as the Scripture says, no man can serve two masters. There is now depending a controversy between Massachusetts and the slaveholders who have temporary control of the United States goverement as to this fugitive slave law of 1850, and the subject of fugitive slaves generally. Massachusetts denies the right of Congress to pass any law at all on the subject, and even if she admitted such a right she would resist this law of 1850 as unconstitutional, and even if it were constitutional, as cruel, unjust, hateful and intolerable. This is the position of Massachusetts, and this has got to be the position of the officers of Massachusetts. If any man prefers to serve the slaveholders, let him do so—but in that case he cannot be an officer of Massachusetts.—Much less is any officer of Massachusetts to be tolerated in pretending that his very oath as an officer of Massachusetts bids him to aid in enforcing the infamous act of 1850.

I deny the claim set up on behalf of the slave-catchers, by Mr. Loring, that they are the exclusive friends of the Constitution of the United States. I claim to be a friend of the Federal Constitution. I am no Garrisonian. I would not have said that three years ago,—but now Mr. Garrison is becoming one of the most popular men in the Union, and no man can be supposed to be courting the popular favor by declining to be numbered with his followers. I do not think the Constitution a "compact with hell." But Mr. Loring and the slave-catchers do. The only difference between them and Mr. Garrison, is this. Both parties agree that the Constitution is a hellish compact, demanding hellish actions. Mr. Garrison says, "Get thee behind me, Satan!" Mr. Loring and the slave-catchers say—having got a view of the kingdoms of the earth and richness thereof, and the federal offices in prospect—"Satan we adore thee!"

What, I should like to ask, is the conduct to be expected of a true friend of the constitution of the United States, as the slave-catching clause alleged to be contained in it? I should say, a true friend of the Constitution, and of the country and of the Union would endeavor to keep that clause out of sight and out of use as much as possible; and if it could be shown that there was no such clause in the constitution, that it is a mistake—and there have been many similar mistakes even in the interpretation of inspired writings, let alone human ones—to suppose such a clause to be there, that the clause referred to meant in fact no such thing—I think any body doing this would do a very friendly service to the constitution and to the Union. Mr. Loring and the slave catchers think differently. They seem to think that the merit of obedience is in proportion to the shock it gives to the moral sentiment. A Catholic doctor once said of the doctrine of transubstantiation, *I believe because it is impossible.* On the same principle Mr. Loring and the slave catchers seem to think there is vast and ineffable merit in obeying—because the acts commanded are execrable.

Puritan Massachusetts holds no such doctrine. She holds and always has held and always will hold, that no obedience is due to any act of legislation, constitutional or unconstitutional that shocks the moral sense of mankind.

And to show that such is the case, to give a proof of it not to be misunderstood or mistaken—a proof of which the force will be felt at the South as well as at the North, the removal of Judge Loring from his office of Judge of Probate is asked for. It is said to be a new, hard, and unusual measure. As to that let me conclude this tedious and rambling discourse by a quotation from Lord Bacon, of which one fragment is often quoted in a contrary sense by persons who have no idea of the drift of the entire passage—"Surely every new medicine is an innovation, and he that refuses new medicines must expect new evils; for Time is the greatest innovator, and if time alter all things to the worst"—as it has most essentially altered the Constitution of the United States in turning it into an instrument of slave holders and slave-catchers—"and council"—we may say in this case governor and council—"alter them not to the better," what shall be the end?"

Hon. Amasa Walker was the next speaker. He thought the people of Massachusetts demanded the removal of Judge Loring. He thought it was time Massachusetts should stand up for her rights. She ought to have acted when Mr. Hoar was sent back from Charleston. He trusted the time had come when Massachusetts is going to act. He expected Mr. Loring would be removed, and that a law would pass protecting the liberty of all our citizens. The people will be disappointed unless it is done.

An opportunity was then given for any one who desired to do so, to speak for the remonstrants.

Mr. Gitchell rose again and said: I find our Southern old adage very true here; that is, they that can't turn can't spin. There is one of two things; we either have got a Constitution or we have got none. And according to my understanding of the word obeying the Constitution, all the States are bound to make laws not to conflict with the law of the Constitution of the United States. The law that my friend (Mr. Hildreth) read here, that no officer should hold an office that meddled with the fugitive slave—that law you may twist about, and turn over, and double it up, yet you can't get it but what it will conflict with the law of the United States—with our Constitution.

Now I am a perfect State Rights man. I don't want the State of Massachusetts to bow in servility to any State; I want her to make her own laws; but in the meantime, gentlemen, in discussing this subject, are very careful to turn them round and tell what the law is and may be and what the law can be, and that a man can do thus and so, and that he is sworn to obey the laws of the State and that he is also sworn to obey the laws of the United States—the Constitutton; and every man has a right, according to the dictates of his own conscience to put his own construction on the laws and on the Constitution. He has a rigbt to say that is granted from the greatest authority; and that is the freedom of this country and the free thought of the human family of the creation of God. You may think that is strange language for a slavehelder, but that don't matter. We hold slaves in the South, and we think about it—which at a better time I could explain.

The gentleman (Mr. Hildreth) said something about State street and something about Daniel Webster; and that man whose talent was like the operation of steam power, is the greatest mind that this nation ever produced. He spoke about State street. I hardly understand the meaning about that, but I rather think there is considerable cash there, and that cash rules Daniel Webster. That I cannot think. I think Daniel Webster did the best he could. I don't think money had anything to do with tbe will of that great man.

My friend here quotes law and patches it up and compares it with cats. Cats! Now the foundation of our government and the removal of Judge Loring from office is two things. The quotation of cats is a diversion to undermine and get them off the subject. Now the interest of the South is to hold slaves yet. I don't want to see the day come when the slaves are set free in their present condition. If they was you would see want and disgrace stalking about the streets of this country. The towns would be sacked (Great laughter.) Where would Lowell go? And where would your institutions go? Who supports them? We raise the raw material and by that means commerce is carried on between all the States.

I don't want to make marks for the people of Massachusetts to go by. But I am here. Fortune has rolled me here, and it may be for some good results. (Laughter.) But mind what I tell you. I don't know much, but what I do know I know as good as any man. (Renewed laughter.) I don't want money, and I aint seeking for office. If you are amind to remove Judge Loring, I have no objections. (Laughter.) People fetch up petitions to remove Judge Loringing from the Judge of Probate. Has he done any thing wrong as Judge of Probate? No, there is not one man says so; only he has carried out the law concerning fugitive slaves. What was the foundation of that law? The North took away the line of 36.30. Give us that and you may have your fugitive slave law. Who meddled with it? Did the South? No. Mr. Douglas stuck in his hand and meddled, and by the help of the North and a few doughfaces of the South they got it. (Great laughter.) They that is afraid to come further North than Washington city, and then proclaim their subjects. I want men with iron hearts to carry out the law; and I want men with soft hearts of philanthropy. I want men who cannot look on suffering humanity. You may say, That is strange language for that man to use. But God help me, I have never looked on suffering humanity without helping. I would give the last dollar I have to suffering humanity. I don't think I will have anything to answer on account of the slave; I don't think I have any account to make up in the coming day.

But here is the point. Judge Loring has carried out the law, and they will disgrace him and bring down disgrace on his family when they don't know what they are doing. I don't come to defend Judge Loring, but when I take hold of the plow I sieze it with a strong grab and don't look back. I can say a good deal on this subject. (Laughter.)

Mr. Phillips is a lawyer and I am a stone mason. He is against Judge Loring because he prejudged a man, and said "don't do anything to prevent that man going back, for he probably will." Why did he draw up his petition? He acknowledged he was the man. Mr. Phillips says when the nigger met his master, he said, "Massa Charles, I didn't run away, I got on a ship and it carried me off." He knew that he belonged to that man and he knew if he made a great exertion to stay here he would be punished. Revenge is sweet, as every man has got the same thing in him, there is not that mighty sight of difference them North and South. Said he, I don't want you to have any fuss about it; I am going back. There was a little difference about the law. Perhaps he didn't go exactly according to the law. Here the man came up and claimed his property, and the convict himself acknowledged that he belonged to Col. Suttle; and he had the best ground to say that he should go back. I don't think what has been said should change your mind. I think you are men with minds of your own; if you aint you ought to be. I think you should look well to the interest of this great nation for you are probably doing something now that may be the foundation rock of something that may be worse or better. (Loud laughter.) I said worse or better. (Renewed laughter.) It may be it will turn out worse or bad. If you think Judge Loring has committed a crime for which he should be removed, being a man that has filled that office many years, a man of great talent, yet because he has cleared his own conscience—it is him that has got to answer to God for his own conscience, and not you—then I think you will remove him. If you think he has not, then I think you better not

Roars of laughter followed this speech.

Lewis Hayden, a colored man, and formerly a slave, followed in a brief speech, in the course of which he suggested some doubts whether Mr Gitchell was really a slaveholder; but if he is, he argued that by his own appearance, he exhibited a strong argument for the liberation of the slaves when three million of them were subjected to the control of such men as he.

The hearing was then postponed till to-morrow, Tuesday, at three o'clock P. M.

Anthony Burns in Massachusetts.

His Speech in New York.

Rev. Mr. Grimes arrived home yesterday afternoon, having accomplished the object of his visit to Virginia. Anthony Burns is now a free man.

He is now in Amherst, in the western part of the State, where he will remain for a few days, and will visit this city, some time during this week. On Friday evening there was a public meeting in Rev. Dr. Pennington's church in New York, where Burns made a speech, which we find reported in the *Tribune* of yesterday, as follows:

My Friends:—I am very glad to have it to say, to have it to feel, that I am once more in the land of liberty; that I am with those who are my friends. Until my tenth year I did not care much what came of me, but soon after I began to learn that there is a Christ who came to make us free; I began to hear about a North, and to feel the necessity for freedom of soul and body. [Applause.] I heard of a North, where men of my color could live without any man daring to say to them, "You are my property;" and I determined, by the blessing of God, one day to find my way there. My inclination grew on me, and I found my way to Boston. You see, I didn't want to make myself known, so I didn't tell who I was; but as I came to work, I got employment, and worked hard; but I kept my own counsel, and didn't tell anybody that I was a slave, but I strove for myself as I never had an opportunity to do before. When I was going home one night I heard some one running behind me; presently a hand was put on my shoulder, and somebody said: "Stop, stop; you are the fellow who broke into a silversmith's shop the other night." I assured the man that it was a mistake, but almost before I could speak I was lifted from off my feet by six or seven others, and it was no use to resist. In the Court House I waited some time, and as the silversmith did not come, I told them I wanted to go home to supper. A man then came to the door; he didn't open it like an honest man would, (laughter,) but kind a slowly opened it, and looked in. He said, "How do you, Mr. Burns," and I called him, as we do in Virginia, "master." He asked me if there would be any trouble in taking me back to Virginia, and I was brought right to a stand, and didn't know what to say. He wanted to know if I remembered the money that he used to give me, and I said, "Yes, I do recollect that you used to give me 12 1-2 cents at the end of every year I worked for you." He went out and came back next morning. I got no supper nor sleep that night. The next morning they told me that my master said he had the right to me; and as I had called him "master," having the fear of God before my eyes, I could not go from it. Next morning I was taken down, with the bracelets on my wrists—not such as you wear, ladies, of gold and silver—but iron and steel, that wore into the bone. (He showed the marks which his irons had made.) The lawyers insisted that I should have counsel, but I told them I didn't think it would do any good, for what I had first said had crushed me, and I could not deny the truth, and my only hope was in the assistance of Heaven. He proceeded to relate how the officers were armed in the Court Room: how the United States officials told him that Dana, Ellis, Philips and the rest were d—d sons of b—s of Abolitionists, that he would be freed when he got back to Virginia, and advised him to have nothing to do with those who pretended to befriend him while they made his case worse. He replied that they worked for him manfully, and if they did not succeed it was not their fault. He said he saw in a newspaper that he had said he wished to go back to Virginia. Had the Devil himself said it, he could have told no greater lie. He then described the scene of his reudition, how he, a poor fugitive was made a great lion, and escorted out of the free City of Boston and on board of the revenue cutter, amid troops of men armed to the teeth. (How they (the law and order men) promised to purchase him when he got to Virginia, and when he got to Norfolk they clapped him into jail, and put irons on his wrists, and kept him in a room without bed or seat, and with but scanty food, for two days. He was taken to Richmond, where he was kept in a little pen in the Traders' Jail for four months, with irons on his wrists and ancles, so tight that they wore the flesh t rough to the bone, and during the month of August they gave him a half-pailful of water every two days. From this cell he was not allowed to come out once during four months, at the end of that time he was sold for $905 to one David McDaniel, who took him to North Carolina.

The remainder of his story is short: hearing of his situation, the money was raised and his purchase effected by Mr. Grimes.

The address was listened to with great interest, and was much applauded.

The Rev, Mr. Grimes followed, after which a collection was taken up.

COURT CALENDAR.

[Reported for the Boston Daily Advertiser.]

The Circuit Court of the United States came in yesterday by adjournment, when the trial of Theodore Parker and others indicted on account of the Burns Riot was fixed for April 3; and the Court adjourned to the 15th inst.

CASE OF JUDGE LORING.

[Reported for the Boston Daily Advertiser.]

At the hearing yesterday, the throng of spectators was much greater than at either of the previous hearings, and hundreds were compelled to leave without gaining admittance.

The committee was called to order at a little after three o'clock, P. M.

Mr. Hamilton Willis testified—I was at Judge Loring's office on Saturday evening after the arrest of Burns, he drew some paper relating to the case, which I think I did not see; there was a discussion in his presence as to the course proper to be pursued to secure the freedom of Burns by purchase, and as to the forms of delivering him up; I think that Judge Loring thought he could be set free by purchase; he had this view of the case until he went to the office of the United States Marshal; at the Marshal's office obstructions were thrown in the way, not by Judge Loring, nor by the Marshal, but by other persons then there interfering; there was some paper drawn but I did not understand its purport. Mr. Willis said that the document which he (Willis) drew, for Mr. Grimes contemplated Burns's release from the hands of the U. S. Government by means of money, in the hands of whose officers he was held as a slave.

Rev. Theodore Parker said,—I was requested to draft a petition for the removal of Judge Loring, and did so. Afterwards, in another state, I was told that Judge Loring was sorry for what he had done. Then I said, I will go before the legislative committee and oppose our own petition. But it was not true; he has not repented. Mr. Parker complimented Mr. Dana who was present to speak in behalf of Judge Loring. He then spoke very highly of the personal qualities of Judge Loring, expressed the opinion that he had not a personal enemy in the world, and thought he had many qualifications that adapted him to the business of Judge of Probate.

He said the objection to Judge Loring, was not personal. "We object to him," said Mr. Parker, "because he stole a man. With a spirt of his pen he doomed to slavery a man as free as you or I. He is a kidnapper, and announces that he will consider it his duty to kidnap whenever he is called on to do so officially." Mr. Parker dwelt on this point at some length. He said Judge Loring ought to have known that Massachusetts has repeatedly denounced slavery as a sin, and he then examined and criticised Judge Loring's remonstrance, and maintained that he was not actually obliged to act in the Burns case. He stated as a rumor he was inclined to credit, that Judge Loring was opposed to acting in this case and really desired to resign his commissionership, but was not allowed by his family friends to do so. He argued that the action in the Burns case was sufficient reason for the removal demanded.

Mr. Parker said there were colored persons in Boston who had been held as slaves, and they are likely to have dealings with the Judge of Probate, and he spoke at some length on this point.

R. H. Dana Jr. said:—If the case were a private matter, or one between Judge L. and the state, he should not speak on it. But it was a case of public interest; and as what is done to a public office in this case may be done in another; he wished to express his views. He thought that some of Judge Loring's friends were injuring his cause.

He said that he and others judging from reasons of state and from regard to the public interest, entertained grave doubts of the propriety of exercising the extreme power of removal in this case. He thought the "sleeping lion of the constitution" should not be roused, else great interests might be put in jeopardy.

The petitioners, he thought, might be divided into two classes, to wit:—Those who reason upon the constitution, and those who reason in spite of it. Some regarded the legislature as the people of the state; but the constitution is the highest law of the people, their supreme law, their paramount will. He therefore took it for granted that all were acting in this case under the constitution.

He wished to preserve the anti-slavery sentiment of Massachusetts from extreme counsels. He thought it was in danger of being urged to extremes. It should not do a little wrong for the sake of a great right. The legislature was asked to remove one of the judges. This was a serious question. This power of removal had been exercised but once in seventy-five years. The removal was asked; and why? Because he returned Anthony Burns to slavery. Mr. Dana here very highly complimented Mr. Wendell Phillips and his speech, and stated that he had given the reasons a more statesmanlike shape; nevertheless such was the actual reason. No one alleges that he has misbehaved as Judge of Probate, or that he is not qualified for the office. All the reasons for his removal are drawn from the Burns case.

Now, what is meant by the removal of a judge by address should be carefully considered before the power is exercised. Mr. Dana next remarked that we were indebted to England for much that related to our judiciary, and he gave a historical sketch of the English judicial institutions. He stated that the British Parliament was omnipotent, not being controlled by a constitution; it was like a constitutional convention with legislative authority. Our legislatures, he observed, were not like the British Parliament, but were limited, and were in no sense the people, as some supposed. The Constitution of Massachusetts was made by men with halters about their necks, who provided for a balance of limited powers,—the Legislature, the Judiciary, the Executive, neither of which can be omnipotent. He reviewed the methods provided for the removal of judges, and urged the point that the theory of the Constitution was that the public welfare required that judges should remain in office during good behavior.

He then urged that nothing contrary to this theory of the Constitution should be done under the influence of excitement or extreme counsels, and in doing this, he discussed the limit of majorities, and maintained that we should have judges who would act in defiance of the Legislature and of the Governor and Council, in defence of the Constitution. He contended that to remove Judge L. would endanger the independence of the judiciary, and injure the foundations of the bulwark which the Constitution had erected for the defence of the private citizen. The people were not always right, had not always been right on this slavery question.

He did not agree with those who limited this power of removal by address. He thought there was no limit to this power, save what might be found in the spirit of the constitution, and in great reasons of State.

First, the spirit of the Constitution. The Executive has an unlimited power to pardon those convicted of crime. But is there no limit to this power in the spirit and meaning of the Constitution? Certainly it was not intended that he should make such a use of it as would nullify the juries and the courts. The Governor has the veto power; but he has no right to use it in such a way as to nullify the legislature. Thus it appears that the power not limited in terms is limited by the nature of the case. And so the power of removing judges by address, though unlimited in terms, can not be rightfully exercised without a reason. He referred to what was said and done in the convention of 1820, in regard to this provision of the constitution, and said one reason urged for retaining it was that it would never be abused. The point here made was that it was not correct or statesmanlike to urge that the power in question was unlimited.

Second, the power was limited by great reasons of state. He did not agree with the reasons assigned for the removal of judge Loring, nor with the issue he had made in his letter to the Committee. If Judge L. alone were concerned, perhaps he ought to be nonsuited. Mr. D. cared nothing for Judge Loring; did not appear as his counsel; and was not un-

der obligation to his friends. Perhaps something to mark the sense of his conduct in the Burns case should be done, if it could be done without setting in motion a power that would imperil great interests. We should never allow a judge to be removed for political reasons. Would you like to have it established that Judges may be removed for disagreement with you on the temperance question, or because they are not "practically pious," and the like? The great evil in this country is the undue exercise of the power to remove from office. The action of the national executive in this respect has corrupted the currents of public life. This evil should be checked, not increased.

Now if you remove Edward Greeley Loring, you may open the door to a great evil in Massachusetts. You remove him for deciding against freedom today; and tomorrow another may be removed for deciding in favor of freedom; and thus you may break down the independence of the judiciary and reduce it to become the sport of political passions.

He referred to the law of 1843, which he said merely intended to provide that the state machinery should not be used to execute the old law of 1793.—The legislature had refused to extend that law to the fugitive slave act of 1850, by defeating the personal liberty bill introduced by Hon. Joseph T. Buckingham in 1851. Judge Loring acted in the Burns case only in too close conformity with what had been the action of the legislature. He said it would be singular if the legislature were to ask Governor Gardner to remove Judge Loring for acting contrary to the declared will of the Legislature, when that same Governor Gardner as a member of the legislature had used all his influence to prevent the legislature from condemning the fugitive slave act. It was not true that Judge Loring had flown in the face of any act of the legislature.

Mr. Dana hoped the legislature would enact a law forbidding the judges to be concerned in executing the fugitive slave act of 1850; it had a right to do so; let it enact such a law, and then if Judge Loring did not resign his Commissionership, let him be removed. But it was not true at present that Judge L. had acted against the letter or spirit of any act of the legislature.

He alluded to what had been said of Judge L.'s mode of conducting the Burns case. He thought there was no complaint of the mere fact that Judge L. sat in the case as a Commissioner, for Charles Sumner had offered to sit as a Commissioner in such a case, although he had not been trusted with one; and if he had sat in the case, he would not have been blamed for doing so. The complaint was that Judge L. had not conducted the case properly. Mr. Dana gave a particular account of what he knew of the Burns case, and explained the reasons for the course he pursued in connection with it, showing that Judge Loring was not hard and severe in the case, but on the contrary that his manner to Burns was kind, and that he took some pains to secure a delay of the case in order to give an opportunity for Burns to make a defence. He said that he recorded at the time, at the end of the first day after the arrest, this judgment of Judge L.'s conduct. At the same time he held that Judge L.'s decision in that case was wrong,—wrong on the law, and wrong on the facts,—although he did not think that Judge L. made it so intentionally. Mr. Dana went into various particulars and spoke at some length to vindicate Judge L. from the charge of intentional wrong; and concluded with this judgment of his action in the Burns case;—he was naturally kind, but he brought to the case the influences of his education and associations, and did not bring to it strong instincts of liberty and justice or intrepidity of character.

Will you remove a man for a wrong judgment which was not intentional? There is great danger in the exercise of this power. The danger was that a bad precedent might be established which would strike a fatal blow at the independence of the judiciary. It was precisely such cases as this that were most fraught with such danger. Therefore he asked the legislature to say to these petitioners, we will first put Massachusetts right on the record, and then punish those who violate that record. He asked that the case be decided on reasons of state, with large views of what was demanded by the public welfare. He thought the committee might report a condemnation of the course pursued by Judge Loring, without reporting in favor of his removal.

Mr. Dana spoke nearly four hours.

Mr. Wendell Phillips followed, reviewing Mr. Dana's speech and replying to various portions of it. It was past 8 o'clock when he commenced speaking, and he spoke over an hour. It was sometime past 9 o'clock last eveneng when the committee adjourned after having been in session more than six hours.

Evening Telegraph.

Mr. Dana's Defence of Judge Loring.

It was expected by Mr. Dana's personal and political friends that if he appeared before the legislative committee on the case of Judge Loring, it would be to defend the Judiciary of the State from encroachment, and not in personal defence of the judge, or in vindication of his conduct in the Burns case.

These expectations have been grievously disappointed. We are sorry to say,—sorry for Mr. Dana's sake,—that his address to the committee was throughout a studied and labored eulogium upon Judge Loring, as a man, as a judge, and as a commissioner. He painted in the highest colors his conduct of the trial of Burns, during which, if Mr. Dana is to be believed, nothing could exceed Judge Loring's courtesy, kindness, impartiality, and delicate consideration for the fugitive slave! As Mr. Phillips said in reply, *if* the character of Judge Loring be such as Mr. Dana describes, *if* he conducted the trial of Burns in so admirable a manner, we ought all to go upon our knees before him, and beg pardon for having slandered so faultless a pattern of humanity.

With his usual diffuseness Mr. Dana spun out his argument through four mortal hours. It is, of course, impossible for us to follow all his wanderings over this immense waste, nor is it desirable even if it were practicable. A great part of it, nay, by far the greatest part was entirely irrelevant, and was merely a series of assaults upon phantoms raised by Mr. Dana himself, and of defenses of points which no one has attacked or thinks of attacking. His *entire* argument, so far as he touched the case before the Legislature, can be fully stated in a very few words.

You have, says Mr. Dana to the Legislature, you have complete and absolute power to address Judge Loring out of office without assigning any cause or reason. I admit your power to the fullest extent. The Constitution gives it to you. But I say you ought not to exercise it, because if you do you will establish a precedent which will endanger the independence of the Judiciary. If Judge Loring be removed this year for sending back a slave, in some future year a judge may be removed for drinking a glass of wine at dinner, or for deciding that the Maine Law is unconstitutional. For these "great reasons of State" therefore I protest against this removal.

This is the sum and substance, the whole length and breadth of Mr. Dana's argument, divested of the verbiage in which it was enveloped. And a more flimsy argument it is difficult to imagine. We have

too much respect for Mr. Dana's understanding to believe that he himself would attach much weight to it, if he were not blinded by intense conservatism, by superstitious reverence for judges, and by an undue distrust of the people. If he really believes that the people of Massachusetts or their Legislature would remove a judge from office for making an honest decision on the Maine law, or any other law, or for drinking a glass of wine at dinner, he greatly mistakes their character, and totally misunderstands the principles and feelings on which the legislation of the Commonwealth is founded Under no conceivable circumstances, in no possible state of excitement or of party spirit could the people or legislature of Massachusetts be brought to do such things. The weakest, the most timid Judge that sits upon a Massachusetts bench [illegible] than that—knows that for an uncorrupt decision, however unpopular, no man will dream of molesting him.

In one point of view Mr. Dana's glass of wine illustration deserves notice. If Massachusetts should hereafter, by statute and Legislative resolves prohibit her judges and other officials from drinking wine at dinner, and should make it a crime punishable with imprisonment, why then a judge who saw fit to fly in the face of the commonwealth, and in defiance of her statutes dared to drink wine at dinner would be a proper subject for removal. Now this is just the case of Mr Loring. He has defied the statutes and the will of the people, legally and constitutionally expressed, and is more guilty than a judge who should drink wine under the circumstances we have stated, in so much more as the kidnapping and enslaving of a man is in itself worse than wine-drinking.

The fact is, that on this matter of the judiciary, Mr. Dana thinks and feels like an Englishman, and not like an American. This is shown by his reiterated assertion that Parliament is omnipotent, and that the framers of our constitution, the men of the revolution, had that in mind when they fixed the powers of the legislature. Now the very basis of our national existence, the very first foundation stone of Massachusetts as an independent State, was laid on the principle that parliament is *not* omnipotent. The Revolution began by resistance to acts of parliament—resistance to them, because parliament had no right to pass them. The men who framed our constitution would have been the last men in the world to admit the omnipotence of Parliament. If Mr. Dana's mind were filled with their principles of government instead of conservative notions which are growing musty even in England where they originated, we are confident he would take a very different view of the case of Judge Loring.

In past centuries, when the Crown of England was striving to make itself absolute, and to overwhelm and subject to itself all the institutions of the country, the statesmen of England rightly labored to rear against it barriers and counterpoises, such as the peerage, the church, the great corporations, the learned professions and the judiciary. They strengthened these as much as they could, and made them as independent of the Crown as they could. It is from them that we have got by tradition our excessive reverence for judges. It is from these that Mr. Dana has imbibed his ultra regard for the judiciary, and his un-American distrust of the sovereign power.

He looks upon the people as the English statesmen looked upon the Crown—as a power to be checked, and limited, and restrained in every possible way. Here is his mistake. He forgets that the theory of our government is radically different from that of England. The fundamental theory of English government is that the Crown is *not* absolute. The fundamental theory of our government, as expressed in the clearest terms by the Constitution, is, that the people *are* absolute. They can do what they will. The judges and other officers are their servants and agents, says the Constitution, "*and are at all times accountable to them.*"

By the Constitution, Judge Loring is accountable to the people The people have given to the Legislature express power to remove him if they see fit. Mr. Dana admits the power, and says he would like to have Judge Loring removed, but for "great reasons of State," thinks it ought not to be done. For "great reasons of State," we differ from him, and would not only like to have it done, but earnestly hope it will be done, and that without unnecessary delay.

DAILY ADVERTISER.

MR. DANA'S ARGUMENT.—The masterly and eloquent argument of Richard H. Dana, Jr., Esq., before the legislative committee, against granting the petitions for the removal of Judge Loring, appears to have caused some excitement and indignation among the fanatics who have been pretending that they were carrying the whole community with them in urging the legislature to an arbitrary exercise of power. We copy below the opening sentences of a bitter article in the Evening Telegraph of yesterday. Whatever may have been "expected" by those of "Mr. Dana's personal and political friends" whom the Telegraph represents, we undertake to say,, that those persons who know the manliness and truthfulness of his character never expected that he would bear false witness to what he has seen and known, or to be afraid to state facts as facts, independently of his anti-slavery predilections. No evidence of the fair, impartial and humane conduct of the Burns case by Judge Loring could be more decisive than Mr. Dana's spontaneous testimony. It would outweigh the idle ravings of a myriad petitioners on the other side. He speaks of what he knows, and the honest and intelligent people of Massachusetts believe that he speaks the truth.

The following is the beginning of the Telegraph's article:—

"It was expected by Mr. Dana's personal and political friends that if he appeared before the legislative committee on the case of Judge Loring, it would be to defend the Judiciary of the State from encroachment, and not in personal defence of the judge, or in vindication of his conduct in the Burns case.

"These expectations have been grevlously disappointed. We are sorry to say,—sorry for Mr. Dana's sake,—that his address to the committee was throughout a studied and labored eulogium upon Judge Loring, as a man, as a judge, and as a commissioner. He painted in the highest colors his conduct of the trial of Burns, during which, if Mr. Dana is to be believed, nothing could exceed Judge Loring's courtesy, kindness, impartiality, and delicate consideration for the fugitive slave! As Mr. Phillips said in reply, *if* the character of Judge Loring be such as Mr. Dana describes, *if* he conducted the trial of Burns in so admirable a manner, we ought all to go upon our knees before him, and beg pardon for having slandered so faultless a pattern of humanity."

Boston Evening Telegraph,

[illegible] at 1 and 3 o'clock P M.

THURSDAY MORNING, Marc

The *Advertiser* appears to be angry at our marks of yesterday upon Mr. Dana's defence o Judge Loring. It uses the words "bitter," "excitement," "fanatics," "idle ravings," and others which are not called for by the circumstances of the case. We will venture to suggest to our venerable and respectable neighbor that the cause of Judge Loring will be much better served by sound argument than by harsh language towards the *Telegraph.*

Mr. Dana's Defense of Judge Loring.

Mr. Dana says:—"There are persons who seem to think that the Legislature is the people of Massachusetts, and whatever the Legislature chooses to do is lawful; that they represent the people, and that *there is no law behind, or above or beneath them.*" He assumes that the petitioners for the removal of Judge Loring are of this class, and proceeds somewhat needlessly, we trust, to inform the Committee and the Legislature that the Constitution is above them, is the supreme law of the State, and that they are not at liberty to do anything which is not in accordance with the Constitution.

Mr. Dana, we suspect, was led into this train of remark by having read in some of the Boston papers that the Legislature is composed of veritable "Know Nothings," who are, for the most part, little better than "tom-noddies" We do not know what else could have induced him to favor the Committee with such an amount of gratuitous information.

Though our acquaintance with the people of the State is probably as varied and extensive as Mr. Dana's, and we suppose much more extensive with that portion of them who have petitioned for the removal of Judge Loring, we have never met with any person so ignorant of the powers of the Legislature as those whom Mr. Dana describes.

We are confident that such persons exist only in his own imagination. He unnecessarily distrusts the people, and attributes to them notions which they do not entertain. The petitioners for the removal of Judge Loring have not asked or expected the Legislature to act as if they possessed unlimited power, or to violate in any way the Constitution. They know, however, as Mr Dana knows, and as he has again and again admitted, that the Constitution expressly declares that judges may be removed "*upon address of both houses of the Legislature.*" This power of address, Mr. Dana says, is clear and unquestionable. And under this power, and under the Constitution generally, the Legislature *does* represent the people, and is authorized in the name of the people, to remove Judge Loring from office with the concurrence of the Governor and Council.

Mr. Dana's argument, if closely examined, will be found to be directed against the power of removal itself, rather than against its exercise in the case of Judge Loring. Though he admits, to the fullest extent, the existence of the power, he maintains, in substance, that it ought never to be exercised. He thinks it is a dangerous power. In his anxiety to show that its exercise is inconsistent with the constitution, he goes so far as to say:—"Our ancestors, in their wisdom, said there should be a bench of judges, independent of the Legislature, not their creatures, not to be turned out at their will."

Now, our ancestors said no such thing. They said just the contrary. What they said is in the Constitution. "The Governor with consent of the Council, may remove them upon address of both Houses of the Legislature." They were determined *not* to make the judges independent of the Legislature. In 1780, the framers of the Constitution put in that clause making the judges dependent on the Legislature, and through the Legislature on the people. They knew what they were about, and the people, also knowing what they were about, ratified the clause. That was in the days of the Revolution, when the principles of liberty and of popular sovereignty were fresh in men's minds, and well understood because they had been thoroughly discussed. At a later day, in 1820, the Convention called to revise the Constitution was composed, in large part, of men whose principles had somewhat departed from those of the Revolutionary Fathers. They were Federalists who distrusted and dreaded the people. Like Mr, Dana, they were filled with English and un-American ideas. Accordingly they sought to limit the power of the Legislature over the judges They said in their debates, what Mr. Dana says in his speech, that the constitution gives the Legislature full power to remove the judges, but that it is a dangerous power, which may be abused. They proposed to the people an amendment of the Constitution, restraining this power. They did not dare to propose to withdraw the power altogether, but only to amend it, so that the judge whose removal was sought, should have notice given him with liberty to defend himself. That was all. But even that the people refused to grant. They voted down the amendment. They were resolved not to part with one iota of their power over the judges. Notwithstanding Mr. Dana's positive statement, it is certain that "our ancestors, in their wisdom," were determined that the judges should *not* be independent of the legislature

Mr. Dana goes on to say: "The people of Massachusetts did not mean *that judges should be removed by the Legislature*, and others put in who should be subservient to them." * * * The judiciary is no barrier against oppression unless the judges hold their office *independent of the Legislature or Governor.*"

This may be good argument against the expediency or propriety of having the power of removal by address in the Constitution at all. And if addressed to the late Constitutional Convention of which Mr. Dana was so distinguished and influential a member, it would doubtless have had due weight. But, as the Constitution now stands, it is

totally irrelevant. The people of Massachusetts *did* mean and do mean that judges should be removed by the Legislature; and, in point of fact, the judges are *not* independent of the Legislature and Governor. The greater part of Mr. Dana's argument was therefore thrown away. It did not touch the case. The question before the Legislature is not whether the power of removal by address is a good or bad one, is dangerous or harmless. The Constitution settles that. The Constitution proclaims it to be good, and declares that the Legislature may exercise it whenever they see fit. And, as Mr. Dana told the Committee, the Constitution is "the highest command of the people of Massachusetts—the supreme law of the people—their highest human law, their highest and paramount will. When we speak of the voice of the people, there is one place where we must look, first of all, to ascertain that voice, and that is the Constitution." And yet, with singular inconsistency, Mr. Dana for more than two hours argued against the use of this power, as a dangerous thing, not in accordance with the principles of the Constitution, nor with the will of the people, nor with the "wisdom of our ancestors!"

Mr. Dana's defence of Judge Loring on general principles, then, amounts to little or nothing. There is no Constitutional objection to the removal. On the contrary, there is the most explicit Constitutional sanction for it. All that the members of the Legislature need, to authorize them to proceed to address the Governor for the removal of Judge Loring, is a conviction in their own minds that he ought not any longer to hold the commission of Massachusetts as a judge, that the honor and welfare of the State would be promoted by his removal, and that the people, whom they represent, desire his removal. If they are satisfied on these points, they need have no hesitation in addressing the Governor and Council. They need not fear that the world will come to an end when Edward Greely Loring ceases to be a Massachusetts judge. Many better men than he have been turned out of more important offices for much less cause, and for no cause at all, except that the people did not like them, and yet the Commonwealth survives the shock.

We may add that if Judge Loring shall be removed, not only will the Commonwealth survive the shock, but we will guarantee that Mr. Dana himself will not take it greatly to heart. In his speech, he said more than once that he should be glad to have him removed, that it would give him pleasure to see it done, only he feared it could not be done with safety, because it would establish a precedent which might hereafter be dangerous to the judiciary. Mr. Dana himself recognizes the moral, the ethical propriety of removing Judge Loring, but objects to it solely because of its possible consequences in the future. We are not afraid of the future. Let Massachusetts do her duty today, and she may rely upon it that the Massachusetts of the futnre will be found amply competent to take care of herself and her judges.

[Reported for the Telegraph.]

Burns' Reception.

There was a very respectable audience, in point of numbers, at Tremont Temple, to listen to the story of Anthony Burns, and to congratulate him on his return to Boston as a freeman. There was a large number of clergymen of different denominations upon the platform and in other parts of the hall.

Mr. Burns was most heartily cheered as he came in and took his seat, and then three cheers were called for and given.

JULIUS A. PALMER, Esq., acted as a chairman of the meeting, and said that he had been requested to state the object of the meeting. It was no common occasion. The man who on the second day of June, eight months ago, was carried from our midst in chains, in accordance with the provisions of the fugitive slave law—carried away with an array of military scarcely equalled since the city of Boston was evacuated by the British troops—that man is here, a happy freeman. (Applause.) And we are here to bid him him welcome to the privileges of an American citizen. He has been made free—we are mortified to say it—not by any generous impulse of those who held him in bonds, but by the mighty power of gold—the only power we could control. Thirteen hundred dollars have made this Virginia *thing* a Massachusetts *man*. (Applause.)

It must not be forgotten that the week of his rendition was the week in which our anniversaries were held; and the exciting scenes of that week were witnessed by five hundred clergymen who went home to pray that this man might be delivered, and that the curse of slavery might be removed from our land. God has answered those prayers in respect to this man.

Rev. Dr. NEALE was then called on to offer prayer.

Rev. Mr. GRIMES was next introduced, who made a brief statement of the instrumentalities that had been used in securing the restoration of Mr. Burns. When Anthony Burns was consigned over to the slave-catcher to be carried to Virginia, he made a pledge to him and to God, that if there ever was a time when he could do any thing for his redemption, he would do it.

The place to which Anthony had been carried in North Carolina, was ascertained about four weeks ago, and a correspondence was opened with his master, and a bargain made by which Anthony was to be delivered in Baltimore for the sum of $1300. The first step toward obtaining the money was to see the clergymen of this city, and get their help. Many of them contributed willingly, heart and hand. A week ago last Friday, he started for Baltimore with the money for Burns. On Tuesday of last week the purchase was made at Barnum's Hotel, in Baltimore, and he and Mr. Burns set out on their return. Mr. Grimes, then, in behalf of Mr. Burns, thanked the people who had contributed in any way towards his redemption. In conclusion he said: My prayer is that you will not forget the three millions now clanking their chains, and groaning, and whose sighs and cries are going up, 'How long, O Lord'! Ministers, and deacons, and Christian friends in New England, remember them that are in bonds as being bound with them.

Mr. BURNS was then introduced and he was received with long and loud cheers, the colored portion of the audience especially throwing their whole souls into their manifestations of welcome. As we have given a portion of Mr. Burns' narrative as related by him in New York, we shall state only the substance of his remarks last evening in those respects where he touched upon topics not before mentioned, or stated in somewhat different language. He said:

I am glad to see my friends, my brothers and sisters, that I am blessed so by the kind providence of God to be in your assembly here this evening. It is well known to you all, I suppose, without my saying it, that I certainly was once in Boston before. (Laughter.) And I was carried away by the militia. I do not need at this time nor at any other time that the militia should carry me out again.

It is well understood, and has been for a good many years, within the South, that there was a North. (Applause.) I heard the old heads talking some years ago, when I was a small fellow, of the revolutionary war. They said that the northern men were endeavoring at a certain time to deliver the colored people from bondage. This was looked for, and many died looking for the promise. I bore these things in mind, and they grew up in me. I said that if I ever grew up to be a man, I would try to reach this place which they called the North.

In the mean time he said that he hoped he had become a Christian, and then he was the more impressed with the importance of being free in body and soul. He thought he had a duty to perform in telling others to flee from the wrath to come; yet being in bondage he could not do it. He grieved over his condition, and it was his prayer and supplication to God that He would deliver him out of bondage. It seemed that God heard his prayer. Being blessed with an opportunity to make his escape, he did so, and came to Boston, where he felt as in a free land. He said he did not report himself as a fugitive, but wanted to earn his living without being a burden to his friends. He looked out for a little occupation and had been in business about a month when one evening while passing along the street, thinking of no harm he heard somebody running behind him, who clapped his hands upon him. Said he, "Go back—you are the fellow that broke into the silversmith's shop." Said I, "You are mistaken." He told me the name of the street but I said I had never been there. "But you must come along, and if you are not the one we want," said he, "we will let you alone." After I started, I found there was some six or seven had laid hold of me, and they carried me almost off my feet. They set me down in the Court House and I waited for the gentleman that they said was robbed to come in. But the men did not talk about him at all, and he did not make his appearance for some time. The scenes that followed, until his going down to the Cutter were passed over.

After the trial, on his way to the vessel, he said he found the people in the streets, marching from almost every quarter. O, didn't I look brave? Yes. (Laughter.) Just before he was carried out he said he took especial notice of a couple of captains who came in. They strutted around me in the Court House, some of them said, is this the lion? Another said, is this the fellow that has been keeping all this to-do in Boston? Well, he is a mighty lion. My heart was melted in tears, feeling there was no dependence but in Christ Jesus, my Lord. All my hopes were then fixed in him, saying, Lord, I believe in thee; I believe it was thou who brought me from bondage in a distant land and I believe thou wilt go with me wherever I go. Feeling so strong in Jesus, the fear of man was taken away. The manner in which he was carried to Virginia has been before stated.

He was promised many fine things and fed with fine fancies till he got to Norfolk. He was there put in prison for the first time in his life. There was no bed, no stool, no water in his room. He did not get any thing to eat nor any water that day. He stayed in Norfolk two nights and a day, and was then taken to Richmond, where he was put in the Trader's prison, and remained a week. He was then taken to the jail and had the shackles put on him. His room there was very small, and he was kept there four months during the hot weather. The bracelets on his wrists wore through the skin. In this condition he said he remembered how Daniel had been put in the lion's den and had been delivered, and how prophets and apostles had suffered and been delivered; and then his faith was strong in God, who he believed would deliver him.

At the end of four months he was taken from the jail to be sold at public auction to go to a southern State. For a long time after he was put upon the block nobody would bid for him. This scene, as described by Mr. Burns, was very interesting. Some, walking around him, said, is this the mighty Bostonian? Is this the lion? Some inquired what he thought of the Yankees. Did he think they were fine fellows or rascals? The auctioneer, he said, became quite excited because he could not get any satisfactory bids. One man said, He is a fine, likely, portly looking nigger; I think if I had such a good looking nigger I could make twenty or thirty barrels of corn. (Laughter.) I did not say much to that. By degrees the bids run up, and the more they run up the more mad some of the spectators grew. Some said, Take down the nigger; some said, burn him; some, hang him. At last he rose to $905, and was struck off to David McDonald, a trader, belonging in N. Carolina.

He asked me if I thought I could go home, and serve him with the rest of his niggers? He wanted a pledge before man and my God He said he understood I was a preacher, and he wanted such a pledge that I would do thus and so. I did not want to make any pledge, for I believed that God knew all things, and it dwelt deeply in my heart that I should endeavor to see the North once more. (Applause)

Having this determination, I could make no pledges whatever. Said he, I want you to speak when I ask you this question. Yes, sir, I hear you. Now, will you not talk to my niggers about the North, and say nothing to any of them, and not preach to any of them? When you want to preach you may preach to me. I made no such pledges. Truly I would have been willing to try to preach the Word of God to him if I had been permitted to do it freely, as I felt that I ought to be. Yet I felt that I wanted to come where I had once been, and commenced in a small way, being a freeman.

In conclusion he said, I thank you my friends, for what you have done to bring back one poor Ethiopian to be with you once more. I say I return you ten thousand thanks with my whole heart and soul for what you have done, and may God bless you.

Rev. Dr. Kirk was then introduced who spoke briefly in his usually effective style, showing how deeply his feelings were enlisted in the event which had caused the meeting of this evening. He said, we have to-night a combined view; the Southern side and the Northern side. We have the fact that we recognize under that black skin a man; and that they in the South recognize only a chattel; and that makes a vast difference between the South and the North.

The question may be asked, for what do you come here to-night? Is it to fan a feeling of opposition to the South, and to stir up fanaticism? No, but we come to assert that *a black man is a man*. (Cries of *good*, and cheers.)

Some one in the audience said, that was said long ago. Yes, said Mr. Kirk, it was, and I wish it had been acted upon. The effect of Southern laws was then commented on. The time has come, he said, when the South should know what we think of them. He did not think blustering, spluttering or bravado would do any good. He had prayed to God that we might have nothing but calm, clear vision and a little of the fire that filled the heart of Otis in Faneuil Hall. (Applause.) The Northern view of slavery is that a man is a man for a' that. He thought the negro a man, every inch of him. Under the skin, it is all human. If that doctrine is believed there will be many changes, and there will have to be, in the Senate of the United States the passage of an obliteration law. Yes, Burns is a man, and more of a man than I thought he was. Burns has talked to my heart to-night, like a man. To be sure, he did use bad grammar; but whose fault was that? I think he has the true oratorical ring in him, like that of some of the Indian orators. If he had been in the North all his life, he would not have used so bad grammar. For one, he bowed to the Constitution of the U. States; but the fact is, Anthony Burns is a man for all that; the fact is, it is wrong to incarcerate him except for crime. There is a wrong somewhere. It is entirely proper that the citizens of Boston, who witnessed the scenes of last summer, should come here to say that they recognized him who has been vilified, as a man. We have not come to ma a lion of him. We have only met to congratulate him. We expect that he will retire to his place in the church, and like a modest man that he is, occupy the station for which he may be fitted.

This meeting is but one of a series, in a course of action. Whom is this meeting to affect? The good men of the South. It may help them to see that there is not mere infidelity at work; there is Christianity at work too. They will see that the Christianity of the North is in positive, direct antagonism to the slavery of the South. (Applause.)

"The times of this ignorance God winked at." It will not do for our Southern brethren to apologise for Slavery and justify it unless they will justify polygamy too. And God is putting that along side of them to try them.

This meeting will have some effect on the bad men of the South too. Men who will put upon the auction block and then laugh at and jeer a man because he loves freedom, are bad men. They can be made to feel, and we shall try in our way to make them feel. (Applause.) There is a tone of indignation which can affect them; and when they come to the North, they must not be flattered and caressed, but men must go round them. (Applause.)

When the Nebraska bill was passed, he said that for one, he was going to act. He was now ashamed of his country, and he would endeavor to purify it from its guilt in connection with Slavery.

The meeting was closed by the whole audience uniting in singing the doxology; "Praise God, &c."

Abolitionism in Harvard College.

[Special despatch to the New York Tribune.]

Rejection of Mr. Edward G. Loring—Great Rejoicing in Boston—Firing of Cannon—"There is a North."

BOSTON, Feb. 16, 1855.

At a meeting of the Board of Overseers of Harvard College, in the Senate Chamber, the nomination by the corporation of Edward Greely Loring, (of Burns' memory,) as law lecturer, was rejected without discussion, by a vote of 20 nays to 10 yeas.

The following named gentlemen voted in favor of Loring:

R. A. Chapman,	John H. Clifford,
Rev. Dr. Garnett,	S. D. Bradford,
Dr. Walker, President of the College,	Dr. Blagden,
	Thomas Worcester,
Mr. Andrews, Treas'r,	Emory Washburn,
R. C. Winthrop.	

Governor Gardner voted against Mr. Loring.

Thus kidnapping has been rebuked in conservative Harvard!

There is great rejoicing in the city, and twenty guns are to be fired on the Common to-morrow.

About three bushels of petitions have been presented to the Legislature in favor of Judge Loring's removal as Judge of Probate.

Off with his head!
So much for Buckingham.

According to the above special despatch to Senator SEWARD'S organ, the *Tribune*, the Abolitionists are carrying their agitation into colleges and literary institutions. Thus Mr. LORING, a United States Commissioner, is not permitted to lecture before the Law School of Harvard University, simply because his constitutional oath compelled him to render BURNS back to the South as a fugitive from justice. What a curious law school is that of Harvard University, to repudiate a solemn statute of their country in the presence of students, who are sent there from all parts of the Union for the express purpose of learning and respecting the laws that govern the affairs of this republic!

From the N. Y. Herald.

Intolerance at Harvard University.

We trust the people of Massachusetts will congratulate themselves on the progress which Harvard College has made in tolerance and enlightenment since the Quakers were hanged and the Independents whipped and exiled under the advice of the overseers of that learned body a couple of hundred years ago. We trust they will read once more those gratifying portions of their history, and compare them carefully with the decision rendened on Thursday, in the matter of the vacant law professorship, by the same body, whereby Edward G. Loring, U. S. Commissioner, was rejected as a candidate without discussion, in consequence of his firm discharge of his duty in the case of the fugitive slave Burns. There is no question about the facts. Loring is rejected because he did not resign his office as U. S. Commissioner on the first occasion when he was called upon to act, or because, retaining that office, he did not yield to the mob and play false to the power which appointed him, or the constitution he had sworn to carry out. Had he done either of these things—had he played the coward or the knave—he would undoubtedly have received the suffrages of the overseers of Harvard, and might now have been in full bloom as law lecturer. He chose to do neither—to be courageous and honest—and he is rejected without discussion. This is the estimation at which honesty and courage are held by the oldest academical institution in the United States.

The event is not a fit occasion for an idle parade of words: it demands deep earnest thought on the part of every northern man. Every day that we live the danger presses upon us; every hour the spectre Disunion advances a step nearer our homes. The time for abstract discussion has past. Slavery, in all aspects, has been thoroughly exhausted by speakers and writers; we know all that we shall ever know both of its merits and demerits, of its past history and of its future prospects. All that remains is to act upon the knowledge that is in us. Whether that action shall be such as to render the dissolution of this Union a mere matter of time or not depends upon a very few men, to whom it is given to lead the minds of the masses—upon none more than those to whom the education of youth is entrusted. If the instructors of our young men set their energies to the great work of nurturing a spirit of unswerving fidelity to the Union, we may defy the efforts of the demagogue and the United States will stand. If, on the contrary, they direct the influence they wield to the ungrateful task of fostering sectional strife, we may feel assured that the seed they sow will bring forth fruit, and that the generation now about to spring into manhood will earn a questionable fame by destroying the work of the men of 1776.

Harvard has chosen her side: she selects the latter part, as the one most congenial to her sympathies, the most worthy of her name, and her honors, and her learning. It must henceforth be understood that all the power she wields will be thrown into the scale opposed to the Union, opposed to the Constitution, opposed to the law. In her halls law will be taught as formerly, but students will be taught to break not to obey its provisions. The constitution will be read and studied, but its readers will be carefully admonished that disgrace and ostracism are the penalty of carrying it into effect. On gala days the Union will be lauded in one breath, but the necessity for its dissolution will be inculcated in the next.

Strange predicament for a teacher to be placed in! The gentleman who fills the chair from which Mr. Loring has been excluded, cannot explain to the students the nature of civil or municipal law for that, we are told by jurists, springs from a mutual compromise of interests and opinions, each member of society yielding something to the will of the other members; and Harvard yields nothing, knows of no compromise, will hear of no concession to the will of others. Her own narrow prejudice is the only law she knows. He cannot, in descanting upon constitutional law explain in any intelligible manner the theory of popular government by majorities, for that rests on the submission of the minority; and the minority at Harvard do not submit; they rebel. He must never touch that great cornerstone of American prosperity, the respect for established law which has enabled this country to thrive, under good and bad, weak and strong governments, during an uninterrupted period of nearly eighty years; for Harvard respects no law, however established, that does not precisely coincide with her own views. A strange performance and notable will be these law lectures at Harvard.

Retaliation from the South is of course to be expected. Independently of the feeling which so gross an attack on Southern institutions is sure to engender, the men at the South who desire to give their sons a liberal education will not send them to institutions where, by precept and example, disobedience to the laws of the land is inculcated. They may be as ready as others to admit imperfections in our Statute Book, and as anxious to see them cured; but they will not allow their young men to be taught that when they dislike a law they may openly deride and violate it. The general admission of such a principle would, in time, put an end to all society; and whatever progress Massachusetts may make toward that end, the South will have no hand or part in the disgraceful work.

We ought, perhaps, to exonerate the former from responsibility for the acts of Harvard College. All experience teaches that college men, like churchmen, are unsound guides in matters of politics? They live in a world of their own, and know little of any other. They read Plato, but ignore Calhoun; recite Isocrates, but disown Jefferson; know all about the slaves in Athens and Rome, but are quite unconscious of the working of the system of slave labor in Virginia; can tell off the laws of the Twelve tables on their finger's ends, but have never read the laws of the United States; can solve the problems in Algebra, but cannot answer the simplest question of modern politics. It is not reasonable to expect these men to act wisely when they travel beyond their sphere. Many a western farmer is a far better politician than the Professors of Harvard: few settlers in the backwoods of Iowa or Minnesota would have committed so great a blunder as that which has just disgraced the Alma Mater at Cambridge.

THE EVENING POST.

MASSACHUSETTS.

[Correspondence of the Evening Post.]

Edward G. Loring before the Committee on Federal Relations—Arguments of Petitioners and Remonstrants—Backing out of his Defenders.

BOSTON, March 10, 1855.

The third and last hearing of the counsel for the petitioners for the removal of Edward G. Loring from the office of Judge of Probate, and of the counsel of the remonstrants against his removal, took place Tuesday afternoon at the House of Representatives, before the Committee on Federal Relations. Previous to the first hearing it was announced in the *Daily Advertiser* and other daily papers, that Messrs. George T. Curtis (Commissioner and cousin of E. G. L.,) Sidney Bartlett, an astute lawyer and social intimate of the C.'s, and Richard H. Dana, Jr., one of the counsel for Burns, would appear for the remonstrants.

The first hearing passed off with no appearance for the remonstrants. The second hearing is appointed for the morrow week. The papers still announce that the above noted gentleman will appear, adding the name of the Rev. R. W. Cushman, Hon. Benj. Hallet and Jonathan Pierce. The hearing takes place: no appearance for the remonstrants, although Rev. Mr. Cushman had a seat at the committee table; but he, like all the other eminent gentlemen who allowed their names to appear repeatedly in the papers without contradiction, seemed to be frightened into silence by the power of the petitioners' arguments, and allowed the burthen of the defence to fall upon an Alabamian stone-mason and owner of fifty slaves! The hearing was again adjourned for a week, and now appears Richard H. Dana, Jr., unassisted. It certainly would have been very poor policy for the friends of Mr. Loring to have permitted his cousin and co-commissioner to have appeared in his behalf!

Mr. Dana began by saying that he did not appear for the remonstrants, but for himself as a private citizen. He admitted, unqualifiedly, the right of removal, by address of the two houses, which the learned *Daily Advertiser* had pronounced to be, "in its opinion, an unconstitutional and arbitrary exercise of power," but deprecated the use of it as dangerous to the independence of the judiciary. He argued, rather illogically, that the right had been in existence seventy-five years, and had never been called into exercise but once, and therefore (?) was one with which the people could not be safely trusted! Misled by his very strong conservative and aristocratic instincts, he made a historical error of a most unfortunate character for an American counsellor, in which he was very effectively and [illegible]y corrected by Wendell Phillips in his reply. An extract from the reply will indicate what the error was. Mr. Phillips said:

"As matter of history, his friend (Dana) would have waked up John Hancock if he could have been awakened, when he spoke of the omnipotence of the British Parliament. If there was one thing the patriots of '76 never forgot to deny, it was the omnipotence of the British Parliament. Any argument which commenced with that stand-point, forgot John Hancock and John Adams, for the arguments of '76 against the legislation of a British parliament, were all based on the American idea that there was a British constitution which limited even the power of the British Parliament."

Mr. Dana further said he did not appear as the friend of Mr. Loring; they had no social, and only a slight professional acquaintance; that he had little sympathy with the clique to which Mr. Loring be-

longed, and little reason to feel indebted to his immediate friends and advisers in the last few years. That that clique was not an influence to be courted; that so far from it, it was now in disgrace, &c., &c. Thus vindicating the singleness and purity of his motives in appearing on this side.

Mr. Dana is a fine speaker and debator, a very clear-headed lawyer, has large resources of precedent and language. I have frequently heard him in the lecture room and in the court room, heard him in his eloquent plea for Burns, and have admired him, and confidently predicted a distinguished career for him. But upon this occasion I did not recognise him.

Hesitating, halting, repeating, he stood four mortal hours less fifteen minutes, before a packed audience of legislators, citizens and ladies; the greater part of the time being spent in re-examining the facts of the trial of Burns, and striving to convince the committee that Mr. Loring conducted himself upon that memorable occasion as an upright, cool, remarkably humane man and judge. And what do you think was one of his arguments against the removal of Mr. Loring? Listen! Why, forsooth, we must not be hard upon him, but remember who his associates have been; that he did not bring upon that bench the instincts of freedom and humanity! A pretty plea, surely, for retaining in office a Judge of the Probate Court, whose dealings are with widows and orphans. Ay! who may any day, and must often, have to examine slave widows and orphans, and be made the depository of their secrets, on which hang their very liberty.

It is a dreadful suggestion, that a man who associates with gentlemen, well born and bred, all whose antecedents would seem to be a guarantee against the possibility of such a course, could use information gained in such a way, to betray a poor black orphan or widow into slavery! But as Mr. Parker very properly urged, would it not have seemed, aye been, equally monstrous a few years ago, to have suggested that a Boston gentleman would have sat as fugitive slave law commissioner, when the very terms of the commission, to say nothing of the nature of the duties, are an insult to any decent man!

I confess, the distinction is too nice for my apprehension; and, as Mr. Parker further said, what is to prevent the next Congress from passing a law that it shall be the duty of all commissioners to disclose all that they know of the whereabouts of fugitives, (or, as Mr. Getchell, of Alabama, calls them, *fugatives?*) Of course, many bad motives are ascribed to Mr. Dana for his inexplicable course upon this occasion, not one of which does this writer believe. To him it is simply inexplicable.

How Mr. Dana, after his preamble, fell, insensibly, as it were, into the tone of advocate of Mr. Loring, which required, too, admissions apparently so irreconcilable with the distinct recollections of all those associated with him in the defence of Burns and the preparation therefor, must, for the present, remain a mystery. One charge—that he wished to curry favor with the Curtis clique, is absurd on the face of it—and could only have originated with some one who left the room before Mr. Dana reached the extraordinary point of his defence before alluded to; for nothing ever published was so severe, so scathing, as his quiet allusions to the instincts of the man, and his advisers or clique.

When Mr. Dana came to examine the arguments of the opposite counsel, he did once forget the rules of good breeding, which is certainly exceptional to his general conduct. Speaking of the assertion of Mr. Phillips, which he had made under oath before the committee, that Mr. Loring, when applied to by him (Phillips) the day after Burns's arrest for permission to visit Burns, answered, "You will not be justified, Mr. Phillips, in putting any obstacles in the way of his being sent back, as he probably will be." Mr. Dana, perhaps, for the moment, unmindful that Mr. Phillips had made this statement under oath, very improperly and discourteously introduced a rumor that Mr. Loring denied this.

We never heard a more impressive and dignified defence than was contained in Mr. Phillips' few words when he came to notice this insult. How Mr. Dana will ever reconcile his statements of fact, his opinion and feeling with regard to the occurrences at the time of this trial, with the recollections of his associate counsel Ellis, of Phillips, Parker, and the other friends of Burns, or with his, Dana's, own conduct and speech at the time, remains to be seen. In a word, and in conclusion on this head, Mr. Dana appeared, to those who knew him, to be talking against his instincts and convictions; he never made so poor a figure since he came to the bar, and he has disappointed and saddened his friends, hurt his professional reputation, and, without doubt, made implacable enemies of a family not noted, it seems, for generous instincts.

Where he is to find his reward I know not; for, though I cannot explain his conduct, I am not of those who think that any mean motive lay at the bottom of his most eccentric action. The committee had sat from three to one-quarter of eight, when Mr. Dana sat down. He was followed by Wendell Phillips, who, without an intemperate word, gave his argument a searching scrutiny, a terrible and utter demolition. He showed that *his* argument, made a week previous, and published, had not been shaken in any point, and Mr. Dana must have felt more than ever the truth of the very beautiful panegyric he had himself pronounced upon Phillips in opening his address to the committee. Mr. Phillips spoke an hour and a quarter, and hearty and prolonged applause, that could not be held back in spite of the shouts and flourishes of the sergeant-at-arms and the prestige of the "hallowed precincts," greeted his eloquent conclusion.

The arguments of Messrs. Dana, Phillips and Parker are to be published, it is said; and as there were stenographers present, there is no danger of suppressions. Of some of the episodes of this long debate you have already taken notice. The scene between Getchell, the slaveholder, and Lewis Hayden, the once fugitive slave, was repeated on the second hearing, Mr. Getchell getting considerably worsted, as before. The appeal of Hayden was very eloquent, simple and touching. It was somewhat in this form:

"Ladies and Gentlemen: What argument against slavery and slave-catchers can affect you, if this scene does not? You have seen with your own eyes, and heard with your own ears this afternoon, in the hands of what sort of a being my own child, now in servitude, may possibly be this moment. That man—(pointing to Getchell, certainly a dreadful-looking creature)—such as you see him, and have heard him, is the absolute owner of fifty human beings, so he says; and what worse doom can you imagine for any human being, than this?"

Now, though not strictly parliamentary, it was impossible to hear this appeal without a deep stirring of sympathies.

Since the close of the debate, the *Daily Advertiser* "admits the *right*" of removal by address! The conservative papers have been full of the subject, and it is indeed one of the deepest moment, for on its resolution depends the future character of this commonwealth. You have probably noticed the impudent letter in the *Daily Advertiser* on Dr. S. G. Howe, and how his "plain tale put it down." The author, who signs himself "The Writer," and is now known, complained of the use of New York papers as the medium of our anonymous communications. This comes with an ill grace from an anonymous Quintius, who very well knows that the daily press of this city is closed to such communications from our side, although they do thereby considerably increase the circulation of New York papers here. He also complains, in another letter, that it has been suggested that his kinsman, Edward [illegible] Loring's appointment to the office of lecturer in the Law School," was a "family job."

Such things, to be sure, are difficult to prove; but look at appearances. Who, out of the family connection, has written one single one of the voluminous articles which have crowded out almost all other reading matter from the *Daily*, the *Courier*, and occasionally the *Atlas?* One is signed "Justice." This word, to be sure, contains all the three initials of the writer's name, and he is a connection.

Then comes another "Justice"—in the *Daily Advertiser*—sent from the office of a cousin of Commissioner Loring, to members of the majority of the Board of Overseers of Harvard University, who voted the said commissioner out of his lectureship.

I saw a slip sent to one of the Board containing the article; on the outside was posted a piece of letter paper containing, in the handwriting of a clerk in "Justices'" office, these words, (in substance:) "Read this and see what injustice you have assisted in doing to an innocent man." All that emanates from that side is anonymous, and most of it easily traceable to the kindred or connection. Dr. Howe also gets private anonymous letters—one signed "the writer,"

but you have seen how manfully he meets and puts down his sneak assailants over his own honorable name.

Then is published an article by Francis Basset, a gentleman universally known and respected, stating the circumstances, explanatory of Mr. Loring's remaining in the lectureship as long as he has. (Mr. B. is one of the majority of the Board of Overseers who rejected him.) Out comes the family on him, and signs "Justice!"

The *Advertiser* gets angry, loses its wonted discretion, and talks very impudently of the majority; its language is, "the shame of this proceeding falls upon the twenty overseers alone;" then bids Mr. Loring be comforted, and says he need not feel mortified while a body (the corporation of Howard) embracing two such eminent lawyers as Chas. G. Loring and Justice Shaw has nominated him, &c., (concealing the fact that Mr. C. G. Loring has never been present on the occasions of Mr. E. G. L.'s nomination.) After publishing the notice, as mentioned in a previous part of this letter, that Messrs. G. T. Curtis, &c., would defend Mr. Loring, the *Daily*, nettled at the success of the petitioners in having such able counsel, listened to by so large audiences, comes out and says that the "announcement of these names was entirely unwarranted," and that the crowd was there "attracted by the announcement that certain well-known gentlemen, &c., would speak."

I have written at great length, for I regard the issue now trying as the most important to the character of the state and the future peace of the community which has yet been raised. By its decision, the legislature, ay, the people of the commonwealth, (unless they in the mean time instruct their representatives, for which there is ample time, and the occasion surely important enough)—the people of Massachusetts, I say, by the legislature's action, proclaim one of these two things: "We do not disapprove of slave-hunting on the soil of Massachusetts; we have permitted one of our judges to engage in it, and of course all others have our free permission to do likewise." Or, "We have the legal and constitutional right to so far disparage and discourage slave-hunting on the soil of Massachusetts as to eject from our offices of trust every man who engages in a business disreputable to the state and the age, and we will now and henceforth exercise it."

There can be no evasion of this dilemma, for the right of the Legislature, Council and Governor are no longer contested. If the occasion is not deemed a suitable one for its exercise, then the conclusion is simple and clear; and the Personal Liberty bill now before the Legislature, providing for the prospective disqualification for office of citizens acting as commissioners, is cut of place and ought not to pass.

Yours, NEW ENGLAND.

The Atlas.

☞ We deviate from the rule we have prescribed for ourselves in regard to the discussion of the question of Mr. Loring's removal, by the publication of the following communication, which we permit entirely from courtesy to the writer, denied a hearing elsewhere, and not because we agree with his premises or assent to his conclusions. To some of the latter we certainly do not subscribe. The writer speaks over his own signature, and is alone responsible for the views he expresses, or the arguments by which he seeks to enforce them. Our own views of the legality of the grounds on which the rendition in question was based, we have already given, and are sufficiently known; but this has very little to do with the question at issue, as we understand it, which is not, was the Commissioner's judgment an unwarrantable one, or one given in good faith or in bad faith, but is the case one within the rightful jurisdiction of the legislative tribunal, within the spirit of our State Constitution? This is a grave consideration, one that transcends in importance, as its solution may involve our whole judiciary, all the minor questions, in regard to which there is very little difference of opinion in the community. Mr. Hildreth doubtless speaks his own sentiments honestly and sincerely, but, unless the Constitution clearly confers the right of removal, (not the power only,) there is an open chasm between his premises and the final conclusion to which he comes:

To the Editors of the Boston Atlas:

The *Evening Telegraph* having declined to publish the following communication, will you do me the favor to give it a place in your columns?

RICHARD HILDRETH.

Boston, March 9, 1855.

MR. DANA AND MR. LORING.

Many persons are much surprised, and, indeed, not a little puzzled, at the very different views taken of the conduct of Mr. Edward G. Loring in the Burns case, by Mr. Ellis, Mr. Phillips, Mr. Morris and Mr. Parker on the one side, and by Mr. Dana on the other. Some persons seem to think that between these parties there is a conflict of testimony, whereas there is only a conflict of opinion. There is little or no difference as to the facts; but the same facts seen through a different medium, lead to very different conclusions.

The four gentlemen first named in their view of this transaction look at Mr. Loring as a Massachusetts Judge of Probate, and at Anthony Burns as a man under the shield of Massachusetts law; and they view the whole transaction, not in a professional light, but in the light of humanity. Mr. Dana, on the other hand, looks at Mr. Loring simply as a slave-catching Commissioner, and at Burns simply as a runaway slave, who had no defence against his master's claim; and he views the whole transaction with the eyes not of a man, but of a lawyer. So it is no wonder, if that same Mr. Loring, who to the eyes of the first four gentlemen seems to sink below the horizon into the blackness of darkness, is, by the refracting power of the medium through which Mr. Dana looks at him, elevated, if not indeed to the zenith, yet quite above the fog and vapor of the least breath of reproach.

First.—According to the system generally followed by slave-catching Commissioners, which consists merely in acting as blood-hound for the claimant, Mr. Dana might well enough regard as extraordinarily kind, gracious, and indulgent, conduct which, in a Massachusetts Judge would be set down, and justly so, as most unconstitutionally harsh and cruel. In a slave Commissioner the delay of an hour is quite a stretch of benevolence, much more the delay of three or four days—whereas a Massachusetts Judge can't proceed to try a suit to recover twelve and a half cents without giving the defendant at least seven days to prepare himself. That in point of fact Burns did suffer from want of time, is made perfectly clear by a circumstance tenderly alluded to by Mr. Phillips in his closing speech, that a fatal defect in the record escaped the attention of the learned counsel, thus hurried to trial without sufficient time for thought and study, and remained to be pointed out and demonstrated in a communication published in the Boston Atlas, after Burns had been illegally sent back—a view of the case generally endorsed by the bar of Suffolk as good law.

Second.—Mr. Dana, looking at Burns simply as a runaway from Suttle, who did not know that any defence could be made in his case, and who was very doubtful as to the policy of making any, thinks it mighty gracious in Mr. Loring, that he allowed any delay at all—that he did not, Ingraham like, surrender Burns up after the mere formality of hearing the papers read, and examining a single witness as to the identity.

The view taken by the other gentlemen is totally different. If Burns, being claimed by Suttle, without any warrant issued, had chosen to admit the claim and to go back, that was Burns' own affair; but after the issue of a warrant, and an appeal to the law, the

Commonwealth of Massachusetts had an interest in the matter. It was the right of Massachusetts to insist that whatever might be Burns' private inclination, or however he might, after the warrant had been abandoned, have chosen to return to Virginia with his *friend* Col. Suttle, yet that he should not be carried away *under process of law*, or frightened into yielding *by process of law*, unless a case both upon the law and the evidence, were fully made out against him. Being a Massachusetts judge, Mr. Loring, even while acting as U. S. Commissioner, was bound to remember and to protect the rights of Massachusetts. Burns might yield up himself, but he could not yield up the rights of Massachusetts. He might have been ten times the slave of Suttle, and a hundred times a runaway, but he could not, consistently with the rights and honor of Massachusetts, be surrendered, especially by a commissioner who was also a Massachusetts judge, unless the claim of Suttle was first made out to the ninth part of a hair.

Third. Mr. Dana looks at the whole transaction with the eyes of a lawyer, and everybody knows that lawyers and Judges have a code of morals of their own, according to which a great many things are professionally proper and right, which same things done unprofessionally, or in unprofessional transactions would be highly scandalous. The lawyers flatter the bench, the bench flatters the bar. It is all in the family. Mr. Dana lamented that Mr. Phillips' peculiar views withdrew him from the practice of the bar which he seemed to think was the most glorious occupation to which a man's talents could be devoted. But, in fact, Mr. Phillips lacks one of the most essential qualifications for legal practice: he knows not how to

> "crook the pregnant hinges of the knee,
> That thrift may follow fawning."

But while Mr. Dana thus persists in looking at Mr. Loring merely as a U. S. Commissioner, at the same time, with a confusion of ideas, to which he is a little liable, he insists upon throwing over Mr. Loring's shoulders, as slave commissioner, that mantle of protection which belongs exclusively to a Massachusetts Judge. Mr. Dana admits that the extradition of Burns was not justified, either by the facts, or by the law of the case, as they appeared on the hearing. The decision was wrong, but it was not malicious or corrupt; and Judges, he argues, are not responsible for mere mistakes. Now it is true, that for the sake of the independence of the judiciary, Massachusetts does not hold her Judges answerable for mistakes. Everybody else is supposed to know the law, and is held strictly to that supposition. Ignorance of the law excuseth no man—except a Judge; for Judges are at liberty, acting as Judges, in which character they are supposed to be clothed with a sort of inspiration—and, according to the ideas of some nations, between folly and inspiration it is impossible to draw the line—to make infinite blunders at other people's expense, for which they cannot in any way be called to account. But this immunity extends to them only in their character of Massachusetts Judges. In every other character they are supposed to know the law like other people, and are held accountable to it.

Now Massachusetts has a perfect right to say this to Mr. Loring: Sir, it was going to the utmost verge for you to act at all under the act of 1850 as slave Commissioner, so detested by our people. We have at least a right to insist that if you act under that bloody statute, you shall conform to the law and the evidence with the utmost strictness. To send back a man under that act against the law and against the evidence, is the worst sort of kidnapping. Ignorance of the law does not excuse the vulgar kidnapper, neither will it excuse you. You have no judicial privileges under that act. The very ground on which you uphold your jurisdiction is, that this "extradition," as you call it, is *not* a judicial proceeding, for if it were, a Commissioner, merely, could not act in it. You have sent off this man against the law and against the evidence. Now acting as a slave Commissioner is delicate business. An ignorant man, who undertakes to cut a leg off and kills the patient in the process, is guilty of murder. For an ignorant person to undertake to act as slave Commissioner and to send a man into slavery against the law and against the evidence, is gross malice. It makes him legally if not morally, a kidnapper. That, Mr. Loring, is your position; and that being your position, Masssachusetts does not want you as a Judge of Probate. This is the view, or one of the views under which the removal of Mr. Loring is asked; and with this view I fully sympathize, though even admitting all that Mr. Dana says of Mr. Loring's good conduct as Commissioner—nay, going still further, and admitting all that the warmest friends of Mr. L. can allege, that the act of 1850 is technically constitutional, and that Mr. Loring's decision under it conformed to the law and the evidence—I should still confidently maintain that Mr. Loring ought to be removed, for having ventured to act at all; thereby setting himself in opposition not merely to the letter of a Massachusetts statute, but to the moral sentiment of her people.

Mr. Dana's apology for Mr. Loring, that he went only a little further in trampling on the law and sentiment of Massachusetts than many others went at the time of the Sims case, may answer very well as a rhetorical and personal blow at those others, but it does not help Mr. Loring. I know it was decided by Judge Lawless, of the U. S. District Court of Missouri, in the case of the negro burnt to death in St. Louis, that no indictment would lie against anybody for that act, because the majority of the citizens of St. Louis participated in it. But I have yet to learn that this decision is good law; and, besides, if it were, how would it help Mr. Loring, who did not begin to act till the excitement and delusion were over, and then acted against the public sentiment, and not with it?

Mr. Dana admits that for "reasons of State," Judges may be removed by address. The reason for removing Judge Loring is precisely a "reason of State." There is a conflict between Massachusetts and the United States, as to their several powers and rights in relation to fugitives from labor. Until that controversy is settled by the repeal of the obnoxious act, it is just as incompatible for Mr. Loring to be at the same time a Massachusetts Judge and a Slave Commissioner, as it would have been in 1765 for the same person to have been a Massachusetts Judge and a Stamp Act Commissioner. Mr. Loring does not resign, and he tells the Legislature that his very oath as Judge of Probate obliges him to enforce the new stamp act. What can the Legislature do except remove him by address from a position in which he thinks his very oath of office obliges him to take sides with the other party? R. H.

Boston, March 8.

Messrs. Hildreth, Dana and Loring.

The *Atlas* this morning contains an article written by Mr. Richard Hildreth in reply to Mr. Dana's speech in defence of Judge Loring. The *Atlas* prefaces it with some non-committal remarks, and gives as a reason for its insertion that it had been refused by the *Telegraph*. Mr. Hildreth, a few days since, handed us the article for publication. We declined to insert it, partly because we failed to perceive the force or cogency of its reasoning, but chiefly because it contained a personal attack upon Mr. Dana, in the shape of harsh imputations upon his motives and feelings in coming forward to oppose the removal of Judge Loring.

We have ourselves replied at some length, and in repeated articles, to Mr. Dana's speech. We have totally dissented from his conclusions, and have shown, we think, the weakness and fallacy of his reasonings. We have distinctly pointed out the weight and influence which his well-known conservative opinions and tendencies have had in determining his opposition to the removal of Judge Loring. But we have done so with the courtesy and respect which is due to Mr.

Dana's high personal character and to his distinguished intellectual and legal standing. To his personal testimony in behalf of Judge Loring's conduct in the Burns case we have made little or no allusion. It does not seem to us a matter of much consequence. We think that Judge Loring should be removed, whether he acted in the manner described by Mr. Phillips or not. It is not a mere question of *manners*, or of personal demeanor. And we are satisfied for our own parts, that Mr. Phillips is entirely correct in his statement and description of the conduct of the trial. The discrepancy between his impressions and those of Mr. Dana arises from the difference in their point of view.

In our judgment, however, Mr. Dana deserves credit rather than blame for giving his testimony in behalf of Judge Loring. We said several weeks ago that we could not but highly respect the manly independence with which he follows his convictions, regardless of popular feeling, of his own sympathies, and of the odious character of those on whose side he arrayed himself. We repeat it, he deserves great credit. Judge Loring is on trial. He is hard pressed. Able and eloquent men are arrayed against him. Influential newspapers assail him. He has no popular sympathy to sustain him. He is feebly defended by one or two uninfluential presses.

Witnesses of the highest character come forward to give testimony against him. The Legislative Committee call on all men who know any thing of the facts in the case to come forward and testify. Now Mr. Dana was a witness of the facts in the case. He had good, perhaps the best opportunities of observing them. It was, therefore, not only his right, but his duty to come forward and testify. Was he to stand by and see a man tried for a high offehce, and not open his mouth, when he himself had witnessed the affair and had received impressions favorable to the accused? Certainly not. It would have been base and ungenerous to keep silent. Mr. Dana, under the circumstances, was clearly bound to state all that he had seen of Judge Loring's conduct, without regard to its effect upon the question of removal. He repeatedly declared in his speech that he should be glad to see him removed—that it would gratify his feelings to have it done ; but that, in justice to a man under trial, he felt called upon to state that, in his opinion, and according to his observation, the complaints of Judge Loring's conduct were harsh and unjust.

We greatly mistake the temper and character of the anti Slavery people of Massachusetts, if they do not appreciate and approve the magnanimity and justice of Mr. Dana's conduct, however much they may dissent from his conclusions or disregard his arguments

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Dane Law School.—We understand that at a meeting of the "Assembly," an association composed of the members of the Dane Law School, on Friday evening last, the following resolutions were adopted:—

Whereas, The corporation of Harvard University appointed the Hon. Edward G. Loring Lecturer in the Dane Law School, and the Overseers have arbitrarily refused to confirm the same, therefore be it

Resolved, By us, members of the Dane Law School, in assembly convened, that we fully concur in the opinion of the corporation as by their election expressed, that the personal worth, intellectual and legal abilities and acquirements of Mr. Loring eminently qualify him for the office of Lecturer.

Resolved, That Mr. Loring's system of instruction—comprising a clear analysis of Common Law principles, and an exposition of their reasons and applications, enriched by copious illustrations from the Civil Law—was calculated, to a rare degree, to afford a knowledge of the topics discussed, at once broad and minute; and we deeply regret his removal as bringing a loss to ourselves and the science of law.

Resolved, That we regard the rejection of Mr. Loring as tending to restrain the freedom of judicial opinion, and as sanctioned neither by *justice* nor by *wise policy*.

We are informed that the passage of the resolutions was opposed by a decided and respectable minority, who objected to the imputations upon the Board of Overseers, which they regarded as indecorous, and who moreover thought the "Assembly" an inappropriate place for the consideration of resolutions which in their opinion, should have emanated from a meeting of the law students called for the purpose; and it is alleged by these that the resolutions were not passed in due form. We understand, however, that they received the votes of fifty-six members, which was a majority of those attending the meeting.

We are gratified to learn that the feeling of regard for Judge Loring, and of regret at the loss of his instructions, is universal among the law students, and that no objection to the passage of the resolutions sprung from the want of this feeling.

The Committee on Federal Relations.—The following note, which we copy from last night's Transcript, affords some interesting evidence with regard to the manner in which the report of the Committee on Federal Relations in the case of the proposed removal of Judge Lording was prepared. We feel quite sure that if Senator Albee had himself been the author of the document, it would have been a different and a better paper, notwithstanding his generous assumption of the responsibility of two of its errors, which we understand have been corrected since the first copies were printed.

To the Editor of the Transcript: I have to thank you for the kind manner in which, on Friday last, you called the attention of the Committee on Federal Relations to two errors which occur on pages 10 and 12 of their report upon the case of Judge Loring.

I beg leave to state that no charge of carelessness ought to attach to any member of the committee but myself. Neither of these errors are in the original draft I now have in my hands. When I made the copy, I said to some one near me, "Is the person here referred to, Governor Morton?" He replied he supposed it was. I so put it down, intending to look at the book itself, but afterwards, in hurrying to furnish a copy for the printer, forgot it. This error, however, was soon detected, and most of the printed copies are correct. Nevertheless, I plead guilty to the charge of carelessness in the degree I have stated. Though I had read these debates before, very carefully, yet when I made the extracts, I did, as the Advertiser contemptuously suggests, read with especial reference to the parts which bore upon he point I wished to prove.

The other error referred to was not an error of gnorance, but was merely a mistake in the copy, by inserting the word *since* before the word Judge, which word is not in my original draft, and was not detected till you called attention to it. It reads in the first draft Judge Story, implying, of course, that he was then Judge.

Very respectfully, O. W. Albee.

March 26, 1855.

[For the Telegraph.]

Judge Loring and the Law Students at Cambridge.

Inasmuch as resolutions have been given to the public, as passed by the assembly of the Dane Law School, of which we are members, which resolutions we hold were illegally passed by the arbitrary action of a number of persons, who were not a majority of the School, we wish to make a plain statement of facts.

The Assembly is a society meeting every Friday evening, organized like a legislative body, and subjected by its Constitution to parliamentary rules. It is composed of all members of the Law School who wish to take part in it. It is a fundamental rule of this body, the express condition on which it is permitted to meet, that it shall not allow the subject of Slavery to be introduced into its debates. On Friday, March 9th, at the first meeting of the term, resolutions were introduced by a member from Missouri expressing the regret of the School at parting with Judge Loring, and complaining in strong terms of the "tyrrannical and ungenerous" conduct of the Board of Overseers in regard to him. The objection was at once taken that the Assembly was not the place in which to introduce them—that a meeting of the students specially called was necessary: *first*, because the Assembly which had often declared itself a different body from the Law School had never been under Judge Loring, and, *second*, because they could not be discussed there without introducing the subject of Slavery. They failed to be passed that evening.

The next Friday, March 16th, these resolutions were withdrawn, and a member from Massachusetts introduced others substantially the same, which are before the public. The same objections were taken to these, and they failed to pass in consequence of a strenuous opposition called forth by an effort to subject them to the previous question with the avowed design of preventing any discussion. After the Asssembly had adjourned, which it is obliged to do at 10 o'clock, their friends undertook to pass them in what they declared was a "meeting of the Students," though it had not been legally called. The chair was taken by a student from Alabama, who refused to listen to any motion from the opposition, and amidst the utmost confusion, put the question on the resolutions and declared them carried. This was received with cheers by the friends of the resolutions, but the opponents protested against it as illegal, and it appeared to the actors themselves such a farce, that they agreed to adjourn till the next afternoon, but no meeting was then held.

During the ensuing week much excitement prevailed and the determination to override all parliamentary rules was freely expressed. In the course of the week one of the professors publicly requested the students to abstain from any expression of censure upon the action of the board overseers. The same professor also addressed a note to the Speaker of the Assembly which was entrusted for delivery to the Janitor. That officer, failing to find the Speaker, delivered it on Thursday evening, March 22d, to one of the friends of the resolutions at his request, he stating that he was going to the Speaker's room that evening, and would deliver it to him. The Speaker was in his room at this time and until about eleven o'clock on Friday morning. It was placed in his room on Friday, after he was known to have left it for the day, and the boast was made that he "had not received it, and should not." The Senior Professor also sent a note of a similar character to the Assembly, which was delivered to the Speaker through the Clerk at the meeting on Friday the 23d. This the Speaker declined to notice. The Clerk stated to the Assembly that he had such a note from Professor Parker, but it was voted, amid loud outcries, that it should not be read; and when the Librarian, to whom it was returned by the Clerk, attempted to read, it was violently snatched from his hand by a member from Missouri and retained till near the close of the meeting.

At this meeting on the 23d from the very outset, every one not known to be in favor of the resolutions was refused a hearing. Another series of resolutions was attempted to be introduced designed to conciliate all parties by omitting any censure of the Board of Overseers. These too were refused a hearing. To this arbitrary treatment the opposition would not submit, and after a long contest, the Speaker being unwilling to disregard EVERY right of the opponents of the resolutions, withdrew and called to the chair a member from Illinois who had no such scruples. The clerk was ordered in defiance of all rights and rules. This he refused to do; and with a protest against this arbitrary action resigned his office. Another member was called upon to act as clerk, but he, though a friend of the resolutions, denied the validity of any election, otherwise than by ballot. A member from North Carolina was however found willing to act as clerk. This individual proceeded to call the roll, amidst such confusion that it was impossible to get at the sense of the meeting. The opposition, whenever amid the uproar one of their names was heard, refused to vote, or protested against the right of those persons to call their names. In this way the resolutions were declared to be carried.

The Speaker now took the chair, and business was resumed, the first transaction being an election of a Clerk by ballot; a virtual acknowledgement, it will be noticed, of the unlawful nature of the previons election.

In short, whatever action was taken upon the resolutions, was taken in defiance of all rules in a body professing to be governed by parliament-any rules; against the injunction of the Faculty, from whom alone that body derives its existence. It was taken without discussion, when the chair was occupied by one who avowed his intention to recognize no opponent of the resolutions, and when there was no clerk at the desk; and finally, it was taken by a mere minority of the students. It is left to the public to say whether such resolutions can be fairly regarded as expressing the sense of the Dane Law School.

OPPONENTS OF THE RESOLUTIONS.

Harvard University, March 26, 1855.

LAW SCHOOL AT CAMBRIDGE.

We printed in the Daily Advertiser of Monday, some resolutions relative to the refusal of the Board of Overseers to confirm the nomination of Judge Loring as Law Lecturer, passed at a meeting of the "Assembly," a debating society composed of members of the Law School at Cambridge, and explained the circumstances under which they were passed.

We understand that yesterday, Hon. Theophilus Parsons, Dane Professor of Law, communicated to the law students certain resolutions passed by the Law Faculty on the previous day. These resolutions express a very high sense of Judge Loring's excellence as an instructor, of the value of his services, and the regret of the Faculty at the termination of his relation to the school; and declare that any assertion of such feelings on the part of the students would have had the entire sympathy of the Faculty had they passed without any words of censure of the Overseers; but that the resolutions as actually passed by the students in the Assembly, were indecorous and disorderly; that the passing of them in that form in disregard of the endeavors, both public and private, of all the members of the Faculty, to prevent it, was a breach of discipline, disrespectful to the Faculty as well as to the Overseers, which calls for censure. Accordingly the license for holding meetings of the Aassembly for parliamentary practice is revoked; and the Assembly is dissolved.

The resolutions were read to the whole school yesterday. The Law Faculty consists of Dr. Walker, President of the University, and Professors Parker and Parsons. There was an additional resolution requesting the President to communicate them to the Board of Overseers at its next meeting.

The Assembly is accordingly dissolved. The prompt action of the Law Faculty in discountenancing the expression of censure at the doings of the Board of Overseers ought to be satisfactory to that body, and indicates a proper sense of the dignity of the several governing powers of the University, the comity which exists among them, and the respect which is due them from the students.

ANTHONY BURNS A FREEMAN.

The person of the returned slave, Anthony Burns, having been purchased, through the instrumentality of his friend, the Rev. Mr. Grimes, of Boston, for the sum of $1,300, some of the friends of Human Freedom assembled, on Friday night last, in the Rev. Dr. Pennington's Church, to give the *man* a welcome back to Freedom.

Anthony is a man of medium height, with an honest and subdued expression on his face. His colour is a warm brown; his forehead is high, and but slightly retreating; eyes large and at times full of fun; but, on the whole, he is a serious-looking man. On his left cheek, a broad dark scar is visible. He is a man of powerful frame, and, had a fair opportunity offered, he would have stood up stoutly for his liberty. When he speaks, his voice is firm, deep and sonorous, and pretty well modulated in its expression.

The Rev. Dr. Pennington briefly stated the object of the meeting, after which prayer was offered by the Rev. Mr. Raymond. Dr. Pennington then introduced the returned Fugitive as "*the last Victim of the Fugitive Slave law in Boston,*" and incidentally remarked that the next one would probably be his judge [Loring] (applause).

Anthony Burns quietly divested himself of his overcoat, and then, bowing to the audience, said:

Kind Friends: I am very glad to have it to say, I am very glad to have it to *feel*, that I am once more in the land of Liberty; that I am with those who are friends indeed; those, too, who have daily, in the morning and at midnight, mourned for those who are now oppressed in far-off countries! Yes, I hope you have been making prayers, and shedding many tears, and offering up much supplication to God that he might cause me to be delivered from bondage. I am glad, I say, to be in the land of Liberty, that I am now able to say *my soul is my own* (applause). I want to give you, this evening, a slight history of my journey to Virginia, after I was taken from Boston, and before that time When I was about ten years old, being unacquainted with God and with Christ, truly I cared not much whither I went to, until it came so that God and Christ struck me with humble conviction, and created within me a new heart. Then I came to feel the necessity of both *soul and body being free* (applause). I had heard for many years of a North country, where no man dared to put his hand upon men of my colour and say "you are my property." As I grew, this feeling grew within me, till I came to a resolution, saying "I will, if God supports me, endeavour to reach that land" (applause). Well, meeting with a golden opportunity, as it were, last year, I took it upon myself that I would pay this visit (applause and laughter), and I came into the land of Boston, hearing that it was a benevolent city, where charity flowed. When I got there, truly I did not make myself known as I ought; but being as many of us is, I did n't want to say I was a fugitive slave. At least, you know that I might, thinking I was telling a friend who I was, be telling a foe, and he might lay violent hands upon me. I kept it to myself, and, after a little while, about a month or so, when I got into business, and thought I would try and strive for myself, as I never had an opportunity of doing before. Well then, as I was trying to do a little for my body and soul, behold the thieves came and laid hands upon me. I was going up, one night, to the dwelling where I lived, and I heard some person running and shouting, but I did n't mind it, as I thought it might be some rowdy chaps, as they are in cities; when he cried out, "stop old fellow," and, laying his hand on my shoulder, he said "you are the fellow that broke into the silversmith's shop last night." I said, "Sir, you are mistaken." He told me the name of the street; I said I had never been there. "But you must come along; and if you are not the one we want," he said, "we will let you go." Before I could make a movement, I found that there were not one, but some six or seven of them, and I was almost carried off my feet. The next place I found myself was in a room, up stairs, in the Court-House, where they set me down in a chair, waiting for the "silversmith" to come in. I waited for about, as I suppose, the space of an hour, when, as I hadn't had any supper, and felt

kind of hungry, I asked them if they wouldn't let me go home? And they said no. I began to consider what was the difficulty. About half an hour afterwards, I heard some one walking along the passage, and then somebody opened the door. He didn't open it like an honest man, but seemed to be afraid some one would see him. He opened the door, and walked in, and said, "How do you do, Mr. Burns?" And then I saw that the hunters had caught their game. I used no resistance, and, if I had, it would have availed nought against all of them. It came into my mind to disown him, but then something about the conduct of Christ came to my mind, too, and so I determined, rather than falsify myself, to submit, like a sheep under the shearer, or a lamb under the slaughter, depending on God to arrange the matter. So I called him, as we do down in Virginia, "master." He asked me if I thought he would have any difficulty in taking me back to Virginia. I was brought to kind of a stand, dumb like, but I said "I don't know." He then said how much money he had given me, and asked if I did not remember how kind he had been. "Oh, yes," I said, "I recollect you used to give me 12 1-2 cents at the end of every year that I worked for you." I thought it would be a poor business at the North that would n't turn me in more than that. He went out and I saw him no more that night, and you may imagine I did n't eat nor sleep that night, and what my feelings were I can't tell.

Well, next morning, they told me my master had said I was his, and he had got all the papers to prove it. They put on bracelets, and took me down to the Court-room; not such bracelets as you wear, ladies, of silver and gold, but iron, yes, steel, that cut into the wrists, and [exhibiting his wrists] here are the scars they have left. Well, the lawyers insisted upon me that I should have counsel, though, as I had called the man "master," I told them that I could see no good in it. I considered that the words which I first spoke had ruined me; therefore, I said unto my friends, "There is no use—I don't see whereby any good can be done, except through Almighty God"—for I could n't tell a falsehood even to save my liberty. Well, they insisted upon me, and at last I consented to it, although it profited me nothing. And they tried me, and what a brave sight! I, a poor fugitive, was surrounded by a body-guard of 200 men, all armed with their big horse-pistols and cutlasses (groans), some of 'em lying upon the table and some of 'em in their hands, to the number of full 200, I should think. Some of 'em says to me, "Burns, don't you have anything to do with them d—d sons of b—s of Abolitionists"—meaning thereby lawyers Dana, Ellis, Phillips, and the others—"they don't care anything for you, and won't do you any good." I said that "they were the only men who worked for my freedom, and if they failed, it was not to their blame." Well, next morning, a paper came up and I read in it that they said I had expressed a wish to go back to Virginia; that I wanted to go back very much. Now, Satan himself, if he had come up out of the pit upon the earth, could not have told a bigger lie. Now, I want to ask you, white or black, who of you wants to go into a den of roaring lions? who wants to go into slavery? Do any of you? (No! no!) Who that has had, as I have, the blood trickling down my back, from my neck to my heels, from the deep gashes of the cow-skin, would want to go back there, and beg to be taken back? They give a man 500 lashes for insulting them; how many would they give if a man made them mad? Who wants to be in that position? Is there any man here who holds with that? (No, no.) This is the position to which we are fettered in the South. Well, I was carried down to the Revenue Cutter from the Court-House in a delightful manner. I was quite the ion, the wonderful Burns; I saw they had got the military from all parts of the State, as a guard of honour. There were soldiers before, and soldiers behind, and one at each side of me, with pistols and drawn swords. Some said, "Burns, we have overcome your friends, the Abolitionists, but we will buy you, and bring you back; we have got the money, and your master said he would let us have you." I said, "Gentlemen, if so be as you think you're a-fooling me, you won't do it, for I don't believe you will ever bring me back." And I was not mistaken. I wasn't a-going to believe them. On my way to Norfolk, they still fed me with fine fancies, and said they wan't a-going to put me in prison, and all that; but as soon as I touched the wharf at Norfolk, I was braceletted and put in jail. Some of them said, "we have got Burns, the lion, now." And, as I walked a little stiff, from having had no exercise on the ship, one of them said to me, "Come, now, walk up, walk up, step up, *damn it!* you ain't in Boston now!" Of course, I knew that; and as it would have been no use to say anything there, I mended my steps. I was put into the City Prison, with my bracelets on. I asked for food, and they told me no preparation had been made for my reception. I had no seat, so I had to sit down on the dirty floor, which did not look as if it had been swept once in nine months. For two days and nights, I did not eat above six mouthfuls; and then, about three o'clock in the morning, they came and took me, in a cab, to the wharf, and put me on board the steamer Jamestown for Richmond. When they got me to Richmond, I was put, handcuffs and all, into an omnibus—a great honour, you see, for "niggers" are not permitted to ride in omnibuses there. I was conveyed to the City Prison, where I was kept for a week. Here I was not only handcuffed, but irons were put upon my ancles, so close together that I could scarcely move my feet, and so tight that the flesh grew over them. At the end of that time, they transferred me to the Traders' Jail, on the other side of the street, where they put me into a pen, about big enough for a little dog. Here they kept me for four long months, without once allowing me to leave it. The irons were

so tight that I thought they would wear through my bones. When I would lie down, I had to fall on to the floor, for I had no other means of lying down, on account of the tightness of my bonds; and when I got up, it was only by the aid of a broken chair, which I dragged along to me, and upon which I would rest my elbows and raise myself up. I did not have enough to eat; and as for water, why, that was given me, a half a bucketful at a time, once in every other two days, and that in August; and when I went to drink it, 'twas so hot I thought 'twould scald my eyes out. How many times I strained my eyes towards the North. Many a time did I lift up my voice to God, that he would deliver me—as he did Daniel and the old Prophets—from this den of lions. At the end of these four months, they took me down into the sales-room, and, after some two or three hundred persons had looked at me, they put me up on the block to sell me, and, as I stood on the block, one man said [imitating voice and gestures]—"Darn me, he's a good-looking 'nigger.' If I had him, he would be worth $1,400 or $1,500." "Yes," says another, "if he had never been to Bosting and got tainted. Why, he'd make 75 barrels of corn for himself." Another old loafer, who looked as though he'd only got a ninepence in his pocket to buy him a glass of bad rum, said, "Look-a-here nigger, if I had yer on my place, I put you where yer couldn't get to Boston again in a hurry." And I thought, if I had a-been on his place, *I'd a-ground him to powder;* I'd mashed him to a mummy first (applause). Still another would say, "This is the great lion, Burns. Eh, Burns, are you the lion?" One would ask me about the North, and I told him it was a place where men of my colour could walk the streets without being afraid of insult, or getting knocked down. That was saucy, and he said, "What! not knock a 'nigger' down? Here, take this fellow down, and give him 500." And they got mad to such a pitch that I believe they would have flogged me, only the auctioneer was interested in keeping my skin as free from bruises as he could, because, if I didn't look well, I would not fetch him so much by a good many dollars. At length they got a bid of $25, at which they kept for full three-quarters of an hour, plenty saying they'd like to have me, only I would be telling their "niggers" about the North, and get 'em all to run away. At last, I was knocked down for $905.

The man who bought me wanted me to swear before God and man, that I would serve him as a slave and be very submissive. I said, "Sir, I belong to you; truly, you can whip me to death if you please—but I cannot make any pledges before God. If you take me home and treat me as a man ought to be treated, I will try to do all I can," and my meaning was while I stayed with him. For I was bent on once more seeing Boston or Canada (laughter and applause). He put me in prison again, and I was one day let down to walk in the yard, but I was quickly put back again because, as I had been at the North, I would be talking with the other "niggers" and tainting them with Abolitionism, and set them into the notion of running away too. David McDonald, of North Carolina, was the man to whom I was sold. He took me from the jail in a hack—a great thing, you know, sitting back in a carriage (laughter), a "nigger" don't often ride in a carriage, you know—that was in style! When I left Richmond, one man says, "tell 'em in North Carolina that the people at the North are starving, and that's a fact, you know, Burns." When I got to North Carolina, I found another hack waiting for me—very fine indeed—something big. My master began to talk to me and tell me that he looked at the heart of a man, not at his skin—I had got a white heart, and so he did n't look on me as a "nigger," by no manner of means. He just wanted me to drive him and his wife out, and I was to sleep in a little office among the inferior white folks, who worked on his place, and he would give me money whenever I wanted it. He wanted me to come and tell him whenever I saw anything wrong in the other "niggers"—but I was not to mix in with them, nor make free with them. I went into the little office, and there was no bed, so I went to my master, and asked for one; he sent me to the cook for a blanket—and that was all I got to sleep on. When I had been with this man about a month, I went and told him he had promised to give me whatever money I wanted, and I should, if he pleased, like a little change. And what do you think he gave me—six cents (great laughter). I touched my beaver respectfully, and went off. I was determined to pay one more visit North, and so I wrote to my friends, and I *would have come* if I had had to wade through blood to my neck. I wrote this to Boston, but I don't know if any answer was ever sent to that. I wrote that the only way to escape from bondage was by a general uprising of the slaves, and I would have been willing to lead them, as their captain, to Death or Freedom (great applause).

[Being admonished of the lapse of time, by his friend Grimes,] he said, in conclusion—Kind friends, I thank you for your kind attention, and if you will remember me, and consider how I came up, and I hope you will pray to God to endow me with wisdom, that I may, as a freeman, come to something profitable (much applause).

The Rev. Mr. Grimes was then introduced. He said that he had endeavoured to obtain the liberty of Anthony, while in Boston, and had got the money, and the man was promised to him, when his owner demanded $300 more, and finally said he would not sell him in Boston at any price. He attributed this failure altogether to Loring. A lady friend hearing of Burns's whereabouts lately, a letter was sent to McDonald, who replied that he would sell Anthony for $1,300, although he could get $1,500 or $1,600 in the neighbourhood for him, but that Anthony was a good honest fellow, who earnestly desired his freedom, and, if we would pay him that sum, we should have him. We wrote on a letter of acceptance, and Barnum's

Hotel, Baltimore, was settled upon as the place for our meeting. I then went around among the "law and order" men who had promised to aid n purchasing Burns, and from them and others I raised $700; I then got the other $600 upon my note, and that is the way the sum was made up. Among the contributors were the United States Marshal; Curtis gave $100, a pledge for which I held in my possession, so that he could not back out. Hallett also contributed, and I heard that Loring said he wanted to, but not a penny of his money would I touch. Well, I went on to Baltimore, and met Mr. McDonald, who frankly owned up his business to be that of a regular slave-trader. He executed a deed of sale, and gave me a bond, and I handed him the $1,300, together with $25, the cost of bringing him to Baltimore. He told me that it was with much difficulty that he got Anthony out of the State, and, while on the boat, so much were some Southerners opposed to his return to the North, that they wanted to force him (Mr. McDonald) into selling Burns to them; but he "refused, and stood for two hours on the deck of the boat, expecting to have to shoot one or other of them." Mr. Barnum, of Barnum's Hotel, became security for my safe transit through the State, and here we are, on our way to Boston (applause).

After taking up a collection, the meeting dispersed.

Report on Judge Loring.

We commence to-day the publication of the Reports of the Committee on Federal Relations, to whom were referred the petitions for the removal of Judge Loring from office. There are two reports,—that of the majority, signed by Mr. Albee of the Senate, and by Messrs. Stone, Knowles and Warner of the House; and that of the minority, signed by Mr. Devereux. Besides these, there is a statement of reasons by a part of the Committee, Mr. Peirce of the Senate and Mr. Gould of the House, explaining why they do not sign the majority report.

These documents will be read with great interest. The majority report, which is understood to be written by Mr. Albee, is an able, clear, thorough, and to our mind conclusive statement of the case. It presents an array of facts and arguments which, we think, will be entirely satisfactory to the great mass of the people and the Legislature.

The statement signed by Messrs. Peirce and Gould, admits the right of the Legislature to remove Judge Loring, "for the reasons ably set forth in the report of the majority of the Committee"; "they feel aggrieved at the apparent want of the instincts of liberty which ought to have prompted a Massachusetts judge"; "they recognize the importance of expressing the utter abhorrence with which Massachusetts regards both the Fugitive Slave Law of 1850 and its execution;" still, they hesitate for these reasons to sign the report of the majority:

1. If Mr. Loring's decision had been in favor of Burns no objection would have been made to his presiding at the trial: and no evidence has been offered to show that the decision was corrupt, or not in accordance with Mr. Loring's own convictions of right.

2. Although the public sentiment of the State was against the Fugitive Slave Law, still, in that portion of the State where Mr. Loring presided as a Probate Judge "the forensic and the popular sentiment" was not of so unmistakable a character.

3. They are reluctant to make one man a sacrifice for the sins of others, or even for the benefit of a good cause, and they are solicitous as to the effect of the removal upon the independence of the judiciary.

Mr. Devereux's report is well and temperately written, and denounces in explicit terms Slavery and the Fugitive Slave Law, but opposes the removal of Judge Loring for these reasons:

1. He is not convicted of "any moral or political obliquity, or any voluntary or premeditated wrong."

2. "He was in no wise, individually responsible for the character of the law or of the details of its execution."

3. Being a Commissioner, he could not properly or usefully have refused to act in the case.

4. "No wilful perversion of right or dereliction from duty can be made out against Judge Loring."

5. His position, in a moral point of view, did not differ from that of the Mayor and civic authorities of Boston, or from that of Daniel Webster and other distinguished public men.

6. The independence of the judiciary will be hurt.

7. Massachusetts has better modes of protesting against the fugitive slave law.

REMOVAL OF JUDGE LORING.

Report of the Joint Special Committee of the Massachusetts Legislature.

HOUSE OF REPRESENTATIVES, March 22, 1855.

The Committee on Federal Relations, to whom were referred the one hundred and thirty-five Petitions of Samuel Bowles of Springfield, Amasa Walker, of North Brookfield, Ephraim M. Wright, of Boston, and 12,406 other inhabitants of this Commonwealth, for, and the six Remonstrances of Charles Jackson, of Boston, George Osgood, of Danvers, S. S. Wilde, of Boston, and 1,421 other inhabitants of this Commonwealth, against the removal of Edward Greeley Loring from his office of Judge of Probate for the county of Suffolk, have considered the same, and

REPORT:

Mr. Justice Blackstone, treating upon the law of Nature, the law of God, says: "This law of Nature, being coeval with mankind and dictated by God himself, is of course superior in obligation to any other. It is binding over all the globe, in all countries, and at all times; no human laws are of any validity if contrary to this; and such of them as are valid derive all their force and all their authority, mediately or immediately, from this original."—*Commentaries*, vol. 1, p. 41.

The framers of the Constitution of the United States recognized this law, when their proclaimed their object in forming a Constitution to be, "to establish *justice*."

Our Massachusetts Declaration of Rights declares:

ART. I. "All men are born free and equal, and have certain natural, essential and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties," &c.

ART. X. "Each individual of the society has a right to be protected by it, in the enjoyment of his life, liberty and property, according to standing laws."

In the case of Fisher *vs.* McGirr, Supreme Judicial Court, March term, 1854, Chief Justice Shaw quotes from the Massachusetts Declaration of Right as follows:

ART. XI. "Every subject ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property or character. He ought to obtain right and justice freely, and without being obliged to purchase it, completely and without any denial, promptly and without delay, conformably to the laws."

ART. XII. "No subject shall be held to answer for any crime or offence until the same is fully and plainly, substantially and formally, described to him, or compelled to accuse or *furnish evidence against himself;* and every subject shall have a right to produce all proofs that may be favorable to him, to meet the witnesses against him face to face, and to be fully heard in his defence." "And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities or privileges, put out of the protection of the law, exiled or deprived of his life, liberty or estate; but by the judgment of his peers or the law of the land."

On page 18, Mr. Justice Shaw says: "These expressions have been understood, from *Magna Charta* to the present time, to mean a *trial by jury* in a regular course of legal and judicial proceedings."

Page 14. "These are homely and familiar maxims, scarcely requiring citation; and yet the Declaration of Rights itself, Art. 18, admonishes us that a frequent recurrence to them is 'absolutely necessary, to preserve the advantages of liberty and maintain a free government;' and that the 'people have a right to require of their lawgivers and *magistrates an exact and constant observance of them.*'"

With these principles and maxims as a guide, your Committee ask your candid consideration to the analysis of the remonstrance of Judge E. G. Loring.

Mr. Loring, was, according to his remonstrance, appointed a Commissioner in 1840, though the record of the court shows he was actually appointed in 1839, and Judge of Probate in 1847.

On page second of his remonstrance he says: "By an act of Congress passed A. D. 1793, in execution of the 4th Article of the Constitution of the United States, jurisdiction in all cases of the extradition of fugitives from service or labor had been vested 'in any magistrate of a county, city or town corporate,' and therefore in this Commonwealth, in any person holding a commission as a Justice of the Peace," &c.

Your Committee from this quotation draw the inference that, in the opinion of Judge Loring, Justices of the Peace, as well as county and city magistrates, were in duty bound, by the law of 1793, to act, if called upon, for the rendition of fugitive slaves. He does not even hint that they could avoid it.

And yet the Supreme Court of the United States had decided in the Prigg case in 1842, that "State magistrates may *if they choose* exercise that authority, UNLESS PROHIBITED BY THE STATES."

Hence, acting under the law of 1793 was a matter of *choice* with State magistrates, "unless prohibited by the States."

The States most certainly, by this decision of the Supreme Court of the United States, had a right to prohibit their magistrates from acting under the law of 1793.

Massachusetts did in 1843, in accordance with this decision of the Supreme Court of the United States, forbid her magistrates to act under the law of 1793, in respect to "fugitives from service or labor."

Now, if Mr. Loring intends to say, as his language certainly implies, that he could in 1847, when appointed Judge of Probate for the County of Suffolk, act as a magistrate of Massachusetts under the law of 1793, in respect to "fugitives from service or labor," he must either be ignorant of the Massachusetts law of 1843, forbidding our magistrates from acting under the law of 1793, or he must assert that he was ready, if occasion offered, to act in defiance of said law.

The Massachusetts law of 1843, further to protect personal liberty, made it clear to the comprehension of every person in Massachusetts who had read that law, that it was the will of the State that her magistrates should not act for the rendition of fugitive slaves; and the moment any Massachusetts magistrate did act for the rendition of a fugitive slave, that moment he would forfeit his commission as a magistrate of Massachusetts. And it mattered not, according to the *spirit* of the law of 1843, whether the magistrate acted under the law of 1793 or some other similar law that might be passed by Congress.

For it was evidently the intention of the Legislature of 1843 to protect the personal liberty of the citizens of Massachusetts, and prevent her magistrates from acting in any way for the redition of fugitive slaves.

The decision of the Supreme Court of the United States in the Prigg case was broad enough to cover the whole ground; for the court say, in reference to the section of the Constitution of the United States respecting fugitives from service or labor, the clause does not point out "any State action to carry its provisions into effect. The States cannot, therefore, be compelled to enforce them; and it might be well deemed an unconstitutional exercise of the power of interpretation to insist that the States are bound to provide means to carry into effect the duties of the national government, nowhere delegated or intrusted to them by the Constitution." Then it is clear, that *no* law of Congress could impose any duties upon Mr. Loring, as a magistrate of Massachusetts, to act for the rendition of fugitive slaves.

Your Committee well understand that Commissioner Loring claims not to have acted in the rendition of Burns as a magistrate of Massachusetts, and they wish, in considering this subject, to give him all the benefit of that claim. Nevertheless, the above facts seem necessary to a clear understanding of the case.

Mr. Loring further says, in his remonstrance, that, "by an act of Congress, passed A. D. 1850, chapter 60, while I held, and had long held, the office of Commissioner, the jurisdiction in question was transferred to the Commissioners of the Circuit Courts of the United States."

True; but did this repeal the moral force of the Massachusetts law of 1843, and release honorable magistrates from the observance of the spirit of that law? Could a Judge of Probate act as a Commissioner for the rendition of a fugitive slave, and honorably retain his commission as a Massachusetts Judge of Probate, whilst the Massachusetts law of 1843 remained unrepealed by any act of the Massachusetts legislature?

Mr. Loring himself says, on page 4 of his remonstrance, "Magistrates do not make the laws, and it is not for them to usurp or infringe upon that high power," &c. This of course implies that they do not repeal the laws.

And yet Mr. Loring himself evidently felt there was an incongruity in the positions he held before the community. It seems difficult for him to rid himself of the idea that the Mr. Loring who made Anthony Burns a slave, is the identical Mr. Loring that is to sit and measure out justice to the widows and orphans of Suffolk County. He endeavors to prove that the Judge of Probate has done nothing; the law says so; for he states on page 5 of his remonstrance: "Action under the said act [of 1850] was lawful, and not prohibited by any State law to the judicial officers of the State," &c. And he might have added, in the words of Lady Macbeth, "What need we fear who knows it, when none can call our power to an account?"

Yet is the technical ground assumed by Judge Loring so clearly tenable, when the bill of 1850 is entitled, and is, "An act to amend and supplementary to the Act" of 1793? Is not the law of 1793 in force as thus amended?

Again: Mr Loring, in his remonstrance, page 2, calls the attention of the General Court to chapter 83 of the Revised Statutes, as fixing what business is incompatible with the office of Judge of Probate.

Your Committee find the legal incompatibilities there laid down. But they would respectfully ask, are these the only things incompatible with the office of Judge of Probate?

Are there not certain proprieties which no public officer can disregard, and retain the confidence of the people? Are there no moral incompatibilities? Mr. Loring himself would probably admit that a most consummate villain may complacently say, "I have violated no statute law." And yet the community may feel that such a one has done many things incompatible with an office that makes the man who holds it, the guardian of widows and orphans.

Mr. Loring says further, on page 4 of his remonstrance, "And I respectfully submit, that when (while acting as a Commissioner) I received my commission as Judge of Probate, no objection was made by the Executive of the Commonwealth or of any other branch of the government to my further discharge of the duties of Commissioner; nor at the passage of the act of 1850, when the jurisdiction aforesaid was given to the Commissioners of the Circuit Courts of the United States, nor at any time since, was I notified that the government of Massachusetts, or either the Executive or Legislative branch thereof, regarded the two offices as incompatible," &c.

The meaning of this sentence is somewhat obscure. But if Mr. Loring intends to convey the idea to the public, that from 1840 down to 1854 he had no intimation, from either the Executive or the Legislative branch of the government of Massachusetts, that the rendition of fugitive slaves was incompatible with the office of Judge of Probate, we would respectfully refer him to an "Act further to protect personal liberty," passed by the legislature of Massachusetts, and approved by the Governor on the twenty-fourth of March, A. D. 1843.

Even before this, as early as April 6, 1839, Massachusetts passed a resolve, declaring it [illegible] a paramount duty of Massachusetts to protect [illegible]

citizens in the enjoyment and exercise of all the rights to which by virtue of their citizenship they are entitled."

From this date down to 1850, the statute books of Massachusetts teemed with resolves against slavery, resolves showing that Massachusetts regards slavery as a sin; that she abhors the principle of depriving men of their liberty without trial by jury.

Even after Mr. Webster's 7th of March speech, and whilst the Fugitive Slave Bill was pending, as late as May 1, 1850, by a legislature with a large Whig majority, resolves were passed reaffirming the doctrine of the law of 1843; and those resolves stand to-day, uncontradicted by any subsequent action of the legislature.

To be sure, the bill of Hon. Joseph T. Buckingham was not passed in 1851; not, however, because the legislature was not favorable to its principles, but because a part of the Senate contended that the law of 1843 was still in force.

In the laws and resolves of 1850, chapter 97, the legislature say:

"Whereas the people of Massachusetts, acting under a solemn sense of duty, have deliberately and repeatedly avowed their purpose to resist the extension of slavery into the National Territories, or the admission of new Slave States into the Union, and for these ends to apply, in every practicable mode, the principle of the ordinance of 1787; also to seek the abolition of slavery and the slave trade in the District of Columbia, and the withdrawal of the power and influence of the general government from the support of slavery, so far as the same may be constitutionally done; and whereas the important questions now before the country make it desirable that these convictions should be reaffirmed, therefore,—

Resolved, That the people of Massachusetts, earnestly insist upon the application by Congress of the ordinance of 1787, with all possible sanctions and solemnities of law, to the territorial possessions of the Union in all parts of the continent, and for all coming time;" that "they have no doubt that they hold these sentiments in common with overwhelming majorities of the people of the United States; but, in any event, they *will follow their principles, deterred by no threats of disunion and no fear of consequences.*

Resolved, That the sentiments of the people of Massachusetts, as expressed in *their legal enactments*, in relation to the delivering up of fugitive slaves, remain unchanged." "We hold it to be the duty of Congress to pass such laws in regard thereto, as will be sustained by the public sentiment of the Free States where such laws are to be enforced, and which shall especially secure to all persons whose surrender may be claimed as having escaped from labor and service in other States the right of having the validity of such claim *determined by a jury in the State where such claim was made.*

Resolved, That the people of Massachusetts, in the maintenance *of these their well-known and invincible principles, expect that their officers* and representatives will adhere to them at all times, on all occasions, and under all circumstances."

What, then, are these well-known and *invincible* principles which Massachusetts expects *her officers* to adhere to at all times, on all occasions, and under all circumstances? Are they not the legal enactments of 1843, and the maintenance of the trial by jury for all such persons as are claimed as fugitives from service or labor in the State where such claim is made, as expressed in the preceding resolve? Most certainly they are.

These resolves were not passed by a party vote, but as the voice of the whole people of Massachusetts. In these resolves, it is clearly defined what Massachusetts expects of her officers. With such resolves before him, could any Massachusetts officer conscientiously declare that "he was not notified that the government of Massachusetts, or either the Executive or Legislative branch thereof, regarded such an office as Judge of Probate" inconsistent with an office that required the rendition of a person claimed as a fugitive from service or labor without trial by jury? Could any officer expect to do this, and still retain the confidence of the people of Massachusetts?

A Judge of Probate, for instance, may do many things, either as a citizen or as a Commissioner, which would render him unfit for the office of Judge of Probate, and yet not render him liable to removal by impeachment. Hence the reservation of the right of removal by address.

The power of removal by address, under chapter III., article 1, of the Constitution, was intended to reach cases in which judges might not be subject to impeachment.

The individual holding office may not be guilty of crime, gross immorality or official misbehavior, so as to be liable to removal for such cause on trial and to judgment on impeachment, and yet, from gross or rash measures, or loathsomeness of person, or general offensiveness to the community, or from loss of the public confidence, ought to be removed by address, which is without trial or judgment.

The causes for articles, trial and judgment, on impeachment, are limited. Removal by address, besides all these causes, which, from various reasons, it may be best not to make the subject of solemn trial and severe judgment that involve the disgrace of conviction, with the penalty of disqualification for office, and may extend to incapacitating from any office of honor or trust, extends to a much wider range.

This is a wise constitutional provision, the only one, which, (the judiciary not being elective,) holds the judiciary accountable to the people. It is not limited to cases of official misconduct. To thus restrict it, is to nullify it. A servant is not beyond the reach of the people, merely by keeping clear of criminal misconduct.

They have reserved the power of simply dismissing from service.

This power is in no danger of being abused, being restricted to cases in which the House, chosen from the people in towns, the Senate, elected in the larger districts, the Council, selected from the people by a joint ballot of these two branches, and the Governor, chosen by the whole body of the State, concur.

To omit to exercise it, from the fact that it might be abused, would be a dangerous precedent; for it would be a *practical recognition of a limitation to a right of the people.*

Mr. Loring, in his protest, denies the practical existence of the power, by denying the right of the people to exercise it. He denies this right, because he says there is no good cause, or what amounts to the same thing, it would be "extreme injustice and want of equity." The fallacy is here. He declares that no cause for removal is good, unless it amounts to official misconduct, Whereas, unless there be causes, short of that, that are sufficient in the mind of the people, the power is practically annihilated.

It is precisely the cases in which the people see that the man, in person, mind or morals, is such as they do not wish to retain in their service, that this reserved constitutional right was meant to reach.

This may be proved beyond a doubt by reference to the debates and action taken on Art. 1, chap. 3, of the Constitution, in the Constitutional Convention of 1820.

On Friday, December 29, "on motion of Mr. Dana, the House went into a committee of the whole on the reports of the select committee on the Judiciary power, Mr. Morton (afterwards Judge and Governor) "in the chair.

"The committee went into consideration of the first resolution of the select committee, which pro-

poses to alter the Constitution so that judicial officers shall be removable by the Governor and Council upon the address of two thirds (instead of a majority) of each branch of the legislature.

"Mr. Austin, of Boston," (afterwards Attorney-General,) "moved to amend the resolution by striking out all the words after '*resolved*,' and inserting that it was inexpedient to make any alteration and amendment in that part of the Constitution that relates to the Judiciary."

On suggestion of Mr. Mitchell, the motion was divided.

After an exceedingly long, full and able debate the amendment of Mr. Austin to strike out was adopted by a vote of 21 to 105—exactly two to one.—*Page* 486, *Const. Conv.* 1820.

Thereby the question was settled, that, in the opinion of the Convention, that great principle of absolute accountability of Judges to the people, woven into our original Constitution by our revolutionary fathers in 1780, should not be stricken from the Constitution, or essentially modified.

December 30, 1820, on the Judiciary power, in the Constitutional Convention, the question was stated on the other part of Mr. Austin's motion, viz., to insert.

Mr. Webster moved to amend the amendment, in conformity with the resolution of Mr. Prince, by striking all out after the word "resolved," and inserting:

"That it is expedient so to amend the Constitution as to provide that no address for the removal of any judicial officer shall pass either house of the General Court until the causes of removal are first stated and entered on the journal of the House in which it originated, and a copy thereof served on the person in office, that he may be admitted to a hearing in his defence."

This amendment, with some slight alteration, was the ninth proposition submitted to the people.

Monday, April 9, 1821, the people voted on this proposed amendment, coupled with two other amendments of inconsiderable moment, and rejected the proposition by a vote of 14,518 to 12,471.—*Page* 633, *Massachusetts Convention of* 1820.

By that vote, the people of Massachusetts, in 1821, clearly affirmed that they intended to retain the right to remove judicial officers, for other causes than those of "misconduct and mal-administration" in their offices, and that they would not be delayed in so doing even by the impediment of a hearing.

They reaffirmed the doctrine of 1780, that the people, by their delegated power, might remove a judicial officer by address, without assigning their reason, unless they chose, for such removal.

But it is not necessary that the people should actually come to a vote, to show that they reaffirm the great principles of the Constitution.

Mr. Dana very justly remarks, in his argument for Mr. Loring: "The people of Massachusetts have uttered their voice in the Constitution. The Constitution is the work of the people of Massachusetts; it is the supreme law of the people of Massachusetts; and when we speak of the voice of the people, there is one place where we must look, first of all, to ascertain that voice—and that is, the Constitution. It was made in 1780, but it is reaffirmed by the people of Massachusetts every hour. They have the power to alter it; and whenever they do not alter, they reaffirm it. Every hour of its existence is a reaffirmation by the people of Massachusetts that *that* is their highest human law—that *that* is their highest and paramount will.

Your Committee are happy to be able to quote the high authority of Mr. Dana to sustain their settled convictions that the Constitution is the highest and paramount will of the people of Massachusetts. In this they hear the voice of Massachusetts reaffirming hourly, since 1780, "We approve, and we will retain, the power to remove our judges by address."

The reasons for giving this power were clearly set forth in the debates upon this subject in the Constitutional Convention of 1820, as the following extracts will show:

"Mr. Savage, of Boston, said he hoped we should have as good provisions in our Constitution as there were in the Constitution of the United States. He hoped we should have better—that we should have the advantage of both modes of removal from office, by impeachment, and upon an address of the Legislature, so as to meet the moral disqualifications and the natural disqualifications for office.

It had been our misfortune in this part of the country to have a judge impeached in the Senate of the United States for crime; and he was afraid his memory served him but too well when he said that the Senate declared him guilty, which he was guilty only of insanity.]

Mr. Dana (now Chief Justice Dana) said:

"What is meant by good behavior? The faithful discharge of the duties of the office. If not faithful they were liable to trial by impeachments; but cases might arise when it might be desirable to remove a judge from office for other causes. He may become incapable of performing the duties of the office without fault. He may lose his reason, or be otherwise incapacitated."

Mr. Davis of Boston, (since Solicitor-General,) said: "No reason need now be given for the removal of a judge but that the Legislature do not like him."

Mr. Childs of Pittsfield, (recently Lieutenant Governor,) said: "The founders of the Constitution intended to put the judiciary on the footing of the fullest independence consistent with their responsibility."

Mr. Cummings, of Salem, (Judge) said: "This provision is not intended to embrace cases of crime—it is only for cases when they become incompetent to discharge their duties. May not the people, by a majority, determine whether judges are incompetent?"

Mr. Lincoln of Worcester, (since Judge and Governor,) remarked: "It was said that judges have estates in their offices; he did not agree to this doctrine. The office was not made for the judge, nor the judge for the office, but both for the people. *There was another tenure*—THE CONFIDENCE OF THE PEOPLE. It was that which had hitherto occurred here. Have we, then, less reason to confide in posterity than our ancestors had to confide in us?"

Mr. Webster, in urging his objections, said: "It is not made necessary that the two Houses should give any reasons for their address, or that the judge should have an opportunity to be heard."

Mr. Story, (since Judge of the United States Supreme Court,) endeavoring to show how far the power of address extends, said: "The Governor and Council might remove them on the address of a majority of the Legislature; not for crimes and misdemeanors, for that was provided for in another manner; but for no cause whatever—no reason was to be given."

Mr. Austin, of Boston, (afterwards Attorney-General,) said: "But the Constitution admits that there may be cases in which judges may be removed without supposing a crime." "He would suppose the case, not of mental disability, *but the loss of public confidence.* He knew that such cases were not to be anticipated; but he would look to times when the principle might be brought into operation—when the judge, by indulging strong party feelings, or from any other cause, should so far have lost the confidence of the community that his usefulness should be destroyed. He ought in such case to be removed; but if witnesses were to be summoned to prove specific charges, it would be impossible to remove him. A man may do a vast deal of mischief, and yet evade the penalty of the law; a judge may act in such a manner that an *intelligent community may think their rights in danger, and yet commit no offence against any written or unwritten law.*"

Your Committee think the time has come, when a Massachusetts judge has acted in such a manner, so that an intelligent community think their rights in danger, if men can be deprived of their liberty, more precious even than life itself, on the soil of Massachusetts, without trial by jury.

Mr. Prescott, a name well known and honored among the judiciary, though opposed to the unlimited retention of the power, yet acknowledged its existence, saying, "There may be other cases in which they ought to be removed, when not guilty of misconduct in office, but for infirmity." "The two other departments may remove them without inquiry—without putting any reason on record. It was a power to say that judges shall no longer hold the office, and that others more agreeable shall be put in their places."—*Constitutional Convention of* 1820, pp 475, 476, 477, 479, 480, 482, 522, 524.

With these facts and arguments before them, the people decided that they would retain in the Constitution a power to remove judicial officers by address.

[Concluded to-morrow.]

BOSTON DAILY ADVERTISER,

JUDGE LORING'S CASE.—The three promised reports from the Committee on Federal Relations in the case of the petitions for the removal of Mr. Edward G. Loring from his office as Judge of Probate, were made to the House of Representatives yesterday, having been printed in anticipation. The three reports make a document of 43 pages. We print below the closing portion of the majority report, which is of course *the* report of the Committee, including the Address which they propose shall be adopted by the two houses; and we also print the whole of the other two documents, which are much shorter.

The majority report is a long and somewhat discursive paper. It is stated that there were 135 petitions for the removal, bearing 12,409 signatures, and 6 remonstrances against the removal bearing 1424 signatures. The signatures are stated to be those "inhabitants of this Commonwealth," a designation which of course includes men, women, and children, those who by long residence in the State, or by other means, have acquired a knowledge of our institutions, and those who for want of any means of information have no such knowledge. The proportion of signatures on one side or the other, while there is a considerable number on both sides, is, of course, a circumstance of no value as an indication of the real public sentiment of the State; unless the principle be adopted, which we believe an inspection of the petitions presented to the legislature in late years would sustain, that as a general rule, those petitions are least numerously signed which contemplate objects most desired by the great body of the people. The committee do not lay any stress upon this view, however, merely stating the numbers.

The report begins with a sort of review of Judge Loring's remonstrance which however is not included in the report. The report is interspersed with numerous quotations from authorities, which the Committee appears to think have some bearing upon the question, beginning with one from Blackstone's commentaries, and including others from members of the Convention of 1820, from Cicero, &c. The committee fall into a remarkable incidental error. They speak of the debate in the Convention of 1820 as having occurred while Mr. Morton "afterwards Judge and Governor," was in the chair, meaning of course Hon. Marcus Morton of Taunton. If the committee had read the debate for any other purpose than to select such passages as detached from their proper connexion might seem to bear favorably upon their view, they would have observed that Mr. Webster alluded to Mr. Morton as "*the first law officer of the government*," (p. 482 of Debates, &c.) and if they had examined the list of members of the Convention of 1820, they would have known that Marcus Morton was not a member, but that Hon. Perez Morton of Dorchester, then Solicitor-General of the Commonwealth, was the gentleman referred to. This circumstance of course is of no consequence, except as indicating the carelessness with which the majority report was drawn, of which there are other proofs.

The majority report concludes as follows:—

Your Committee do not intend to sit in jugdment upon the motives which brought judge Loring to volunteer to act as judge in a case similar to one which Mr. Benjamin F. Hallett is said to have refused to try. They do not intend to inquire into the motives that brought him ultimately to the decision which he made in the Burns' case. These are only within the cognizanee of his own conscience and his God. But acts come within the cognizanee of man. If bad, and such as militate againt the general good, their results must be guarded against with judicious care.

Men are but shadows. Right is eternal. Justice is everlasting. On the statute books of Massachusetts, from 1836 down to the present time, as has been shown, are recorded the deliberate, decided, avowed sentiments of all parties in relation to human rights and liberties.

The sentiment of the State has not been to nullify or resist the law. It has seen its own citizens imprisoned and sold, its legal agent, Mr. Hoar, insulted and injured abroad, its offices and buildings prostituted at home, but it trusted to the protection of the law. It has endured once and again the execution of an enactment that annuls the law of God, tramples down the barriers of the constitution and the rights of man.

Yet the people mobbed no one for aiding in it. But the people do look on it as sinful and criminal to volunteer in such service. They cannot respect those who do it. They loathe to see or approach him who has received the price of his brother as they do the executioner, and cannot bear to see him in any office of honor or trust within the gift of Massachusetts.

It is sufficient for the Committee to know that Judge Loring has sinned against the moral sentiment of Massachusetts; that under a law which the conscience of Massachusetts abhors, which her Christianity repudiates, which her reason pronounces unconstitutional, and "against law and evidence," he has made a man a slave. The people therefore demand his removal from the office of Judge of Probate.

This doctrine of absolute accountability to the people is no new doctrine in Massachusetts. It is as old as the Constitution itself.

"All power residing originally in the people, and being derived from them, the several *magistrates* and officers of government vested with authority, whether legislative, executive or *judicial*, are their substitutes and agents, and *are at all times accountable to them.*"—*Declaration of Rights, sect.* 5.

The whole theory of our government is, then, that of absolute accountability to the people. The people have constituted *themselves alone* the guardians of their rights and interests. They appoint agents, not to contravene, but to *do* their will, as made known by their laws, their resolves, and their Constitution.

Reasons of State, therefore, demand that every officer who through incapacity, or heedlessness, or bias, or moral taint, or any other cause, has lost the confidenee of the people, should be removed.

Mr. Loring has, in the opinion of the Committee, lost, justly lost, the confidence of the people. The causes which have led to this loss of confidence have

been enumerated above. The necessity of the power of removal by address, and the occasions when it ought to be exercised, have been fully set forth in the former part of this Report. One proper occasion specified by several of the distinguished men who took a leading part in the Convention of 1820, is the loss of the people's confidence. This, also, was imbodied in the Address of 1803; as a prominent reason why Judges Vinal and Sargent should be removed.

After having given this case of Judge E. G. Loring a long, faithful and impartial examination, your Committee, in view of the facts and considerations set forth in this Report, recommend that the accompanying Address be sent to the Governor, requesting him, by and with the advice and consent of the Council, to remove Edward Greely Loring from the office of Judge of Probate for the county of Suffolk.

Address to His Excellency Henry J. Gardner, Governor o the Commonwealth of Massachusetts:—

The two branches of the legislature, in General Court assembled, respectfully request that your Excellency would be pleased, by and with the advice and consent of the Council, to remove Edward Greely Loring from the office of Judge of Probate for the county of Suffolk.

Your Committee further recommeup, that a Joint Special Committee, consisting of four on the part of the Senate, and nine on the part of the House, be appointed to present said Address to His Excellency Henry J. Gardner.

O. W. Albee,
Chairman, Senate.
James W. Stone,
Elijah E. Knowles,
Oliver Warner,
House of Representatives.

Statement of Reasons by a part of the Committee for not signing the Majority Report.

The undersigned admit the *right* of the legislature, under the existing Constitution, to remove Judge Loring from his office, for the reasons ably set forth in the report of the majority of the Committee: they feel the force of the argument based on the law of 1843, in connection with the resolves of 1850, as exhibiting the sentiment and will of Massachusetts in reference to the rendition of fugitives from service; they feel aggrieved at the apparent want of the instincts of liberty which ought to have prompted a Massachusetts judge, in a matter within his own election, to have refused to allow himself to be placed in a position where his duty, according to his own convictions could have forced him to make a chattel of a man; they feel also the weight of the reasoning based upon the peculiar character of the judicial office held by Mr. Loring, especially requiring the sympathy and confidence of the community; they recognize the importance of expressing the utter abhorrence with which Massachusetts regards both the fugitive slave law of 1850 and its execution, and have cheerfully aided in securing the passage of an act forbidding to our State magistrates, in future, the exercise of any judicial or ministerial functions under the national government; still they hesitate, from the following considerations, to sign the report of the majority:—

1. If the decision by Judge Loring, acting as Commissioner in the case of Anthony Burns, had been in favor of his liberty, as many supposed and thousands hoped it would have been, no objection would have been urged or thought of against his presiding at the trial; and no evidence has been offered to show that the decision was corrupt, or that, as a Commissioner, he did not act in accordance with his own convictions of right.

2. In that, although Massachusetts had taken decided ground in the law of 1843, and in the resolves of 1850, prior to the passage of the fugitive slave bill, still every attempt of the friends of personal liberty to extend the authority of the law of 1843 to the fugitive slave law of 1850 failed in the Massachusetts legislature; and while the temper of the people of the State was continually rising in its opposition to the infamous act, under which fugitives were summarily returned into slavery, still, in that portion of the State where Mr. Loring presided as a Probate Judge, both the forensic and the popular sentiment, as expressed in public acts, was not of so unmistakable a character as to assure him that, in sitting upon the case, he would sacrifice the confidence of those that appeared in his court.

3. The undersigned, therefore, feel no inconsiderable reluctance in making one man, however objectionable his course may be esteemed, a sacrifice for the sins of others, or even for the benefit of a good cause; and they have no ordinary solicitude in reference to the effect upon the independence of the judiciary of this summary punishment of a judge, who, however mistaken, is believed to have been conscientious, and who is now adjudged, not by the sentiment that existed at the time of the act, but by the opinion that has grown up into vigorous life under the excitement of national events which have urged and exasperated public feeling since the decision was made.

Bradford K. Pierce.
Erasmus Gould.

Minority Report.

No attempt has been made to imbody in this Report anything like a complete argument upon the subject of the address prayed for by the petitioners for the removal of Judge Loring.

It has not seemed to be necessary, because no dissent is felt, or intended to be expressed, from the greater part of the considerations presented in the long and elaborate discussion which is embraced in the report offered to the House by the majority of the Committee. The difference of opinion is found mainly in the differing conclusions deduced from premises, concerning which there seems to be but little occasion for dispute. The whole ground has, also, been already laid before the House and the public at large, in the proceedings before the Committee, so fully and ably as to leave no need of repetition or enlargement. The subject, moreover, will undoubtedly undergo a thorough investigation and discussion by the House itself, and probably also by the coördinate branch of the legislature. For these reasons, it seems to be superfluous to do more than briefly to detail the grounds upon which the dissent from the conclusions of the majority of the Committee is founded.

There is, and can be, no mistake in regard to the public sentiment of the State of Massachusetts, in relation to the subject of slavery, or the law of Congress commonly known as the fugitive slave law.—The institution of slavery is, in the view of our whole community, grossly inconsistent with the great organic principles upon which both the Constitution of the United States, and of our own State are, as we hope and believe, immutably based. It is no less repugnant to all our ideas of christian duty and of human right. Any legislation, of course, devised to carry out the purposes of a system so irreconcilably hostile to our educational prejudices, our political principles, and to our whole social position, must needs be odious and exceptional to the greatest possible extreme. The fugitive slave law, moreover, in conformity with a necessity that acts upon all unrighteous and unjust pretensions, adopts and institutes modes of proceedure congenial to its purposes, and, equally with them, revolting to all our ideas of justice, and contradictory of the most valued and important muniments of our laws. Sin cannot force into its support the elements of right, nor tyranny work out its ends by means of the organism of freedom.

This view of the melancholy case must be recognized to be nearly, if not altogether, universal throughout our Commonwealth. The indignation and scorn that silently fermented always in the heart of our people, and not unfrequently burst forth in uncontrollable and burning protest, in times past, have assumed a still sterner and more earnest tone since the passage of the Nebraska bill. By that act of perfidy and dishonor, the last poor claim of aggressive injustice upon our forbearance has been lost to its defenders.

Still it cannot be denied, and should not be forgotten, that the fugitive slave law is, as yet, by the paramount legislative authority of our country and by the unqualified recognition of the Federal and State Courts, the law of the land. As such, it is legally binding, not only upon officials, but also upon every citizen of the Union. However painful and reluctant the admission, there is no relief or escape to be found from it but *in open and uncompromising nullification*. If a remedy is to be found, it must be sought elsewhere than within our State jurisdiction. The national authority, which has established the wrong, alone can undo it. However the generous instincts of liberty and the uncalculating impulses of a high-minded people may dare to contemn or venially disown a law so repulsive and so odious, courts, whether judicial or legislative, cannot ignore the issue. With them it is obedience or treason, acquiescence or revolt. The legislator and the judge will fail in duty, if they do not carry their views behind the turmoil and excitement of the moment, and fasten them firmly upon the obligations entailed by the past and upon the jeopardized interests of the future. Nothing short of a manly, calm and dispassionate adherence to the primary principles of social organization, on the part of the makers and ministers of the law; can safely meet or successfully direct the emergencies and chances of the crisis. More especially is this high duty imperative and sacred, when individual rights are compromised in the doubtful conflict of opinion and the fever of excited feeling. Such are the grand principles and facts which appear to form the substratum of the case here presented for the consideration of the legislature.

From motives already stated, but a few prominent reasons will be urged against the measure prayed for by the petitioners and recommended by the Report of the majority of the Committee; and these are presented with very brief comment, or with none.

1st. There does not appear any moral or political obliquity, or any voluntary and premeditated wrong, in the position in which the enactment of the fugitive slave law found Judge Loring, in his capacity of U. S. Commissioner.

He does not appear to have assumed or maintained that position with any reference whatever to that law, with any probable view to any action under it, or with any expectation, definite and appreciable, of being compelled into its service. Nor can the Massachusetts statute of 1843 be made, either in terms or spirit, fairly applicable to his case.

2d. He was, in no wise, individually responsible for the character of the law or of the details of its execution.

3d. It was not competent for him, as a sworn judicial and ministerial officer of the general government, to pretend to judge of the law of its provisions, or to refuse to act under them, in his capacity of Commissioner of the United States; nor could any useful purpose have been answered by the adoption of such a course.

The office which he occupied had no necessary, or even very probable connection with this disagreeable duty; but it was one which Judge Loring could not honorably or decorously, throw off at pleasure, or properly resign, at the moment of his services being so challenged by a person who had a clear right to them under the laws of the U. S. If to the judgement of the more scrupulous, or to that of Judge Loring himself, such a course had seemed to be open to him, it would still be difficult to point out the practical advantage to be attained thereby; nor had public opinion, at that time, contemplated or suggested any such measure for evading the obnoxious statute; nor would such have resulted in any thing more than an immaterial delay.

4th. No willful perversion of right or dereliction from duty can be made out against Judge Loring.—On the contrary, the clear, definite, and unquestionable testimony of Mr. Dana establishes the reverse of such assumptions.

5th. Judge Loring did not assume or sustain a position differing at all, in a moral point of view, from that occupied by the Mayor and civic authorities of Boston; by a very large portion, at least, of the community at large; or a position, on the whole, so exceptionable to the popular feeling of the day as that of Daniel Webster and others of our most distinguished public men.

6th. Although the legislature may, perhaps, have the absolute right to exercise a prerogative of the highest and most extraordinary character, to satisfy a vague and undefined public expectation, it does not seem to be either the intent or the true and safe use of a power, so arbitrary and so summary, to apply it to any case other than of clear, unquestionable, self-evident deficiency or incompatibility, either physical, moral or intellectual. To adopt a different rule, would be at once to place the independence of the Judiciary at the mercy of temporary caprice, excitement or partizanship, and to compromise or destroy the best and most effective security for an honest and impartial administration of the laws, upon which all private rights and puplic order depend.

7th. All reasonable and desirable ends may be attained—whether we look to the moral position of the State, the public sympathies, or the administrative requisitions of the legal relations of the case—by other, more dignified, more charitable and nobler measures. Our proud old Commonwealth would but tarnish her escutcheon, by attempting to reach indirectly, what, it might perhaps be argued, she dares not to do openly and manfully—in taking a step like this, either for the purpose of defining her position or satisfying her conscience.

If Massachusetts is prepared to deny or resist the authority of the Union, let her do so in her sovereign capacity, and there may be honor, if not wisdom in the attempt. To shift a responsibility, so delicate and so grave, upon the shoulders of one of her citizens, is neither magnanimous nor just. She should not require of a feeble individual to solve a trying question, and to meet a risk from which she herself has shrunk, as yet, in painful reluctance.

GEO. H. DEVEREUX.

[For the Boston Daily Advertiser.]

OBSERVATIONS ON THE REPORT OF THE COMMITTEE ON FEDERAL RELATIONS ON THE SUBJECT OF THE REMOVAL OF JUDGE LORING;—WHEREIN IS SHOWN, AN INGENIOUS METHOD OF QUOTATION FROM THE SPEECHES OF OTHERS, BY WHICH THOSE PERSONS ARE MADE TO APPEAR TO ENTERTAIN OPINIONS ADVERSE TO THEIR REAL OPINIONS.

Among the grounds assigned by the Committee in support of the power to remove a Judge are the opinions imputed to several of the distinguished members of the Convention for revising the Constitution in 1820. Extracts from the speeches of Mr. James Savage, Judge William Prescott, Solicitor General Davis, Mr. Lemuel Shaw, now Chief Justice of the Commonwealth and others, are introduced by the Committee into their report. These consist of sentences detached from their context;—I purpose to give your readers the opportunity of judging for themselves, as to the real views of the individuals from whose speeches citations are made, by spreading before them the whole of each speech; and I will indicate by brackets the portions which are quoted by the Committee. I begin with the speech of Judge Prescott, one of the *wisest* men the country has produced.

"Mr. Prescott of Boston, was sensible of the impatience of the committee; but he felt it his duty not to let the subject pass without giving his voice in support of the resolution. He had long considered this provision, one of the most important that could be introduced into the constitution. He rejoiced to say that during the experience of forty years, the different branches had remained independent of each other; but they were bound to see whether their independence was sufficiently secured. Was the execu-

tive department independent of the other two? Was the judiciary independent of the legislative and the executive, or both united? It was as much to be protected from a combination of two, as from any one. They were bound to see which department was the most feeble No argument was necessary to show that if all were combined in one body, the danger would be great. If two were united, they would be formidable. How was it in the other departments?

"The *executive* is removable only for *misconduct*. The *members of the Legislature* hold by *the same tenure*, and these are all officers chosen by the people. Is the judiciary as well protected? *It is as important as any department. The rights of all are dependent on it. They have besides an odious duty to perform.* They have to decide controversies between individuals, by which one party or the other must be offended, because one must lose. They have no conciliatory duties to perform; it is therefore necessary that they should be supported by the constitution. What security have they by the constitution? They hold their offices *as long as they behave well and no longer.* They are impeached when guilty of misconduct. It is the duty of the House of Representatives, constituting the grand inquest of the Commonwealth, to make inquiry—for the Senate to try—and if found guilty to remove them from office. [There may be other cases in which they ought to be removed, when not guilty of misconduct in office, *but for infirmity.*] Provision is made *for these cases*, that the two branches of the Legislature concurring with the Governor and Council, may remove judges from office. *He did not object to this provision, if il was restrained so as to preserve the independence of the judges. They should be indpendent of the Legislature and of the Governor and Council. But now there is no security.* [The two other departments may remove them without inquiry—without putting any reas n on record. It is in their power to say that the judges shall no longer hold their offices, and that others more agreeable shall be put in their places.] He asked, *was this independence?*—If it was not, the constitution did not secure it. It was not for the present time that it was necessary. Perhaps the experience of the past had not shown the want of it. It was enough to show that the security o every person who has rights, may at some future day be dependent on it. *It was not taking power from the people, it was apportioning and balancing the power of the servants of the people.*—Would any one, looking back on the past, say that we should not have times of great turbulence; factious leaders, who will have projects injurious to the true interests of the community? Let such leaders, high in popular favor, carry their measures through the legislature—the executive will partake of the same feeling. Let us have a firm judiciary, *and they will say that those laws if they encroach upon the rights of the citizen, are unconstitutional. What will be the consequence? With such a legislature, are we not to expect that they will agree in an address for the removal of the judges who thwart their measures?* That they will meet concurrence of the chief magistrate, and that other men will be found to supply their places, *who will put such a construction on the law sas they wish?* The constitution secures the freedom of the press. But this is an instrument troublesome to demagogues in power, and they might make laws to destroy it. An upright judge would declare such a law to be unconstitutional, *and for such a performance of his duty he would be put down by the party in power, and another put in his place who would be more compliant.* He might suppose more probable and more important cases even than this. He therefore wished some further security for the independence of the judge.

"The constitution of the United States has wisely provided it. The mode of removal by address was introduced into the British government *for the purpose of restraining the power of the crown;* but in ours for another purpose;—to provide for a case which could not properly be reached by the power of impeachment. But it ought to be provided for in a manner consistent with the independence which the constitution in another part of it demands. The limitation proposed in the exercise of this power is not a novelty. It is found in most of the State constitutions. In four out of five of them the judges are not removable from office but on the address of *two-thirds* of both branches of the Legislature."

Compare the sentiments of this speech, with the two meagre extracts given by the committee, and then say whether they are suitable persons to sit in judgment on a fellow man and pronounce sentence of degradation.

What a prophetic vision Judge Prescott had of the projects of factious leaders, injurious to the true interests of the community! CITIZEN.

[For the Boston Daily Advertiser.]

OBSERVATIONS ON THE REPORT OF THE COMMITTEE ON FEDERAL RELATIONS ON THE SUBJECT OF THE REMOVAL OF JUDGE LORING;—WHEREIN IS SHOWN, AN INGENIOUS METHOD OF QUOTATION FROM THE SPEECHES OF OTHERS, BY WHICH THOSE PERSONS ARE MADE TO APPEAR TO ENTERTAIN OPINIONS ADVERSE TO THEIR REAL OPINIONS.

[No. 2.]

Having demonstrated in the preceding portion of these remarks, the great impartiality of the Committee in selecting passages from the speech of Judge Prescott, to show that he approved of a power in the Constitution to authorize the legislature "to say that Judges shall no longer hold the office, and that others more *agreeable* shall be put in their places;" whereas in almost the next paragraph (which the committee abstain from quoting) he says:—"Would any one, looking back on the past, say that we should not have times of great turbulence; factious leaders, who will have projects injurious to the true interests of the community? Let such leaders, high in popular favor, carry their measures through the legislature—the executive will partake of the same feeling. Let us have a firm judiciary, *and they will say that those laws if they encroach upon the rights of the citizen, are unconstitutional. What will be the consequence? With such a legislature, are we not to expect that they will agree in an address for the removal of the judges who thwart their measures?* That they will meet concurrence of the chief magistrate, and that other men will be found to supply their places, *who will put such a construction on the laws as they wish?*"

I now proceed to spread before your readers eth speech of Mr. Lemuel Shaw, the present Chief Justice of the Commonwealth. The portion extracted by the committee is indicated by brackets. It would be "to gild refined gold" for me to attempt to add any thing to the weight and force of the argument of Mr. Shaw against the use of this mischievous power of removing Judges by address.

"It is laid down as a general principle in the declaration of rights, that the powers of government should be vested in distinct branches—that the legislative, executive and judiciary departments respectively, shall not exercise the powers of either of the others, and that it is the right of every citizen to be tried by judges as free, impartial and independent as the lot of humanity will admit. The independence of one department of the government upon the other has been considered one of the most important political improvements of modern times. This principle is set forth with great force in the Defence of the American Constitutions. It has been adopted by all enlightened governments in the world. The judges are made independent of the crown and of the people. Is this done in our Constitution? Although they hold the office nominally by the tenure of good behavior, if in another part you say they shall hold it at the will of the other branch, you make them dependent, and the first clause becomes nugatory."

I omit here a paragraph explaining the introduction of the power of removal of Judges by address in Great Britain, which Mr. Shaw says was considered to be a great triumph of the people over the *crown*. The speaker then proceeds:—

"*The general principle was, that they should be independent of the other persons during good behavior.*

[What is meant by good behavior? The faithful discharge of the duties of the office. If not faithful they were liable to trial by impeachments. But cases might arise when it might be desirable to remove a judge from office for other causes. He may become incapable of performing the duties of the office without fault. He may lose his reason, or be otherwise incapacitated.] It is the theory of our government that no man shall receive the emoluments of office, without performing the services, though he is incapacitated by the providence of God. It is necessary therefore that there should be provision *for this case.* But in cases when it applies, the reason will be so manifest as to commend a general assent. It must be known so as to admit no doubt, if a *judge has lost his reason*, or become *incapable* of performing his duties. As it does not imply misbehavior if the reason cannot be made manifest so as to command the assent of a great majority, of two thirds at least, there can be no necessity for the removal.

"By the constitution as it stands, the judges hold their offices at the will of the majority of the legislature. He confessed with pride and pleasure that the power had not been abused. But it was capable of being abused. If so it ought to be guarded against. That could be done by requiring the voice of two-thirds of each branch of the Legislature. If unfortunately it should happen that this power should be resorted to for purposes which the constitution did not intend—*to gratify the wishes of a party—it would put at risk the security of life, liberty and property, intended to be guarded by the independence of the judiciary.* Suppose a party, from a temporary triumph, should remove judges when the justice of it is not manifest, and the party which makes the removal should be put down. Their successors in power would say it was an act of justice to restore those who were put out of office. In such case the whole judiciary system would necessarily after one or two changes, be put entirely at the will of the prevailing party. He hoped the convention would adopt the remedy which was proposed, and which would *leave the power of removal to be exercised in cases where it ought to be, and in no other.*"

Is there in this speech, or in that of Judge Prescott, any justification for the assertion, that the reasons *for giving this power* were clearly set forth in the debates in the convention in 1820? Is not the argument of both the speakers entirely opposed to the existence of the power—and, of *course*, to the use of it?

CITIZEN.

DAILY ADVERTISER.

BOSTON:

TUESDAY MORNING, APRIL 3, 1855.

PROPOSED REMOVAL OF JUDGE LORING.—Twelve o'clock today was the time assigned several days since in the House of Representatives for the consideration of the proposed Address to the Governor for the removal of Edward G. Loring from his office as Judge of Probate. On Saturday notice was given of a motion for postponement, and yesterday the report was recommitted, so that it is certain that the subject will not come up today. We propose nevertheless to offer a few remarks upon the subject, although our opinions with regard to it have already been freely and fully expressed.

There is no doubt whatever that in a case which affords proper occasion for the exercise of the right, the legislature possess the right or the power,—absolutely and abstractly considered,—to remove a judge by address. It is not necessary to invoke the great names of William Prescott, or Joseph Story, or Lemuel Shaw, to prove the fact that the legislature possesses this power. It follows clearly, as is evident to the commonest sense, from the simple language of the Constitution, which says in distinct terms that "all judicial officers, duly appointed, commissioned and sworn, shall hold their offices during good behavior, ... provided nevertheless the Governor, with consent of the Council, may remove them upon the address of both houses of the legislature." The Constitution does not in terms put any limit upon the power of the legislature to address the Governor for the removal of a judge.

So also the legislature has the right, asserted in the Revised Statutes, to repeal any and every act of incorporation, passed since 1831; but shall the legislature therefore proceed by a wholesale act to repeal them all? Shall it even begin with one, except in a case of abuse demanding such summary punishment?

So the Governor has the right by the Constitution to refuse his assent to any and every bill and resolve passed by the legislature. But shall he therefore veto all the bills which are passed, whether with reason or without? Would any Governor venture to veto even a single bill, except in a case in which he could at least make a show of reason for the exercise of this extreme measure?

So either house of the legislature can adjourn itself, provided the adjournment do not exceed two days at one time. But shall they therefore undertake to sit only two days in the week, Tuesdays and Fridays for instance? Will either house avail itself of this privilege of adjournment except in a case in which it can be made to appear justifiable?

So, in some States, though happily not in Massachusetts, the legislature is invested with the power of granting divorces. Shall it vote accordingly to annul by one act all the marriages in the State? Will any legislature even grant a single divorce except in a case where strong reasons are presented?

It is obvious that we might multiply such instances almost indefinitely; but we trust that we have mentioned enough to illustrate the principle, of which the correctness cannot be denied, that the powers of the legislature are subject to some limits and some restraints besides those mentioned in words in the Constitution. The guarantee which the people have for the respect of those limits and restraints is the confidence reposed by the framers of the Constitution in the honesty and good sense of the legislature.

The simple question to be solved in this case is this: Has Judge Loring's conduct been such as to demand his removal from office? And the answer which must be returned after a can-

did inquiry is an emphatic negative. There has not even been an attempt to hint, much less to prove, the slightest dereliction from duty or honesty in his administration of the delicate and responsible office from which it is proposed to eject him. It has been attempted to prove something wrong in connexion with his conduct of the Burns case, in another official capacity; and the attempt has been a signal failure. The testimony of Mr. Dana ought to be completely satisfactory upon this point to every impartial mind.

Those who would attempt to betray the legislature into the commission of the arbitrary and unnecessary act of removal, by renewed assurances that "the legislature has the power" reckon largely on the ignorance of members. Anybody who can read the Constitution can understand what are the powers of the legislature under it; and can see that the grant of the power of addressing the Governor carries with it the burden of responsibility that the power shall not be exercised except in extreme cases. It remains therefore for these zealous advisers to prove that the present case is one of such pressing exigency as to demand the exercise of the power; and in this point they fail.

There is a provision of the Bill of Rights which has been frequently quoted by the advocates of the removal, and greatly misapplied. It is this—"All power residing originally in THE PEOPLE, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive or judicial, are their substitutes and agents, and are at all times accountable to them." From this it is sought to deduce an injunction on the legislature to review the proceedings of the judges, and to remove such as may have performed any act repugnant to what is thought to be the popular sentiment for the time being.

The language cannot rightfully bear any such construction. The responsibility of the judges is to *the people*, the same as the legislature and the Governor are responsible to *the people*—and the assertion of this responsibility in the Bill of Rights gives to the legislature, or to the legislature and the executive together, as little right to remove a judge, as it gives the Governor the right to drive out the representatives from the legislative hall, and like Cromwell, bid them give place to better men; and as little right as it gives to the judges to abridge the term for which either the Governor or a Senator or Representative is elected. The article is simply an assertion of the principle that the source of power in our government is the people, as opposed to the old theory of the "divine right of kings," or other anti-republican and anti-democratic doctrines. The attempt to distort its language into a justification of the notion that the decisions of judges should follow the fickle course of popular opinion is wholly inconsistent with the independence of the judiciary so distinctly contemplated and provided by the Constitution.

This question, in its principles and its probable consequences, is by far the most important of the session: and the manner in which it is decided will undoubtedly have a greater, a wider and a more permanent influence on the reputation of this legislature than any other matter which will come before it. The remark of the honorable member who told the Senate on the first day of the session, that "the eyes of the whole world rested upon them," almost finds its literal verification in view of the introduction of this topic. Wherever an interest is felt in the stability of free institutions, whenever the problem of constitutional liberty administered by a people shall be discussed, the example of the Massachusetts judiciary will be cited, and the history of the great crisis of 1855 will be narrated.

☞ The *Advertiser*, which, when the question was first raised, declared that the removal of Judge Loring would be an "unconstitutional" proceeding, has an article to-day in which it fully concedes the power of the Legislature in the premises.

The Case of Judge Loring.

The case of Judge Loring was, by special assignment, to be considered in the House of Representatives to-day. Yesterday, Mr. Stone of Boston informed the House that Mr. Dana had some additional evidence to offer on behalf of Judge Loring, and that he desired again to be heard before the Committee on Federal Relations. On motion of Mr. Stone, the subject was re-committed to that committee.

This step, it seems to us, was unnecessary and unwise. It is, of course, perfectly just and proper that Judge Loring should have the benefit of all the testimony and of all the arguments that can be produced in his behalf; but Mr. Dana's evidence could surely have been brought before the members of the Legislature without the ceremony of re-commitment and another public hearing. It would have just as much force and weight if printed as if given verbally.

Since the above was written, we learn that the Committee on Federal Relations met in the room over the Green Room, at the State House, at half past nine o'clock, this morning.

Messrs. Theodore Parker, Wendell Phillips and R. H. Dana, Jr. were present, together with Rev. Mr. Grimes, the colored clergyman.

These gentlemen were sworn by the chairman of the Committee. Mr. Dana being asked what he had to say, stated that he had no evidence to offer, and was not desirous of another hearing. The statement of Dr. Stone, in the House, was based upon a misapprehension of a letter which he had written to the Committee, in which he suggested that the testimony of Rev. Mr. Grimes with regard to the bill of sale of Burns, which Judge Loring was charged with having written while the trial was pending should be taken.

Mr. Grimes was then called upon to testify in the matter of the bill of sale. His evidence corroborated the statements made by Mr. Theodore Parker at the previous hearings. He was present when Judge Loring wrote the bill of sale.

He was then asked: "In the whole conduct of Judge Loring in court and out, so far as it came under your observation, was there anything which seemed to you objectionable, except in the final decision?"

To this Mr. Grimes replied that he had called on Judge Loring at his house on the Sunday subsequent to the arrest of Burns. He expressed to the Judge his fear that Hallett and Suttle would not take the money that was offered for Burns, and that therefore Burns would have to go back. Judge Loring said he thought they would take the money, but if they did not, if on the trial a doubt could be raised in his behalf, he should have the benefit of it, and should walk out of the Court House a free man. Judge Loring also agreed to meet Mr. Grimes next morning to proceed with the purchase, but did not keep his engagement.

Mr. Grimes thinks that Judge Loring acted wrongly, and deceived him in both these matters. He did not keep his appointment, and did not give Burns the benefit of the doubts which were raised.

He testified also that Burns was ironed in the Court room, as Messrs. Parker and Ellis stated, and as Mr. Dana denied.

Mr. Grimes, in the course of his testimony, stated that Mr. Hallett said to him, Mr. Grimes, you cannot buy Burns, and you had better not try to. The man must go back. The law must be carried out. Mr. Grimes told him he ought to give a hundred dollars for Burns' ransom. Mr. Hallett replied he would contribute to buy the man after he had been sent back to Virginia, but not before.

From Mr. Grimes' statement of his conversations with Messrs. Hallett and Suttle, it appeared that they were satisfied, on Monday morning, that Burns would go back; though it did not appear from what their impressions were derived.

Henry Ware, Esq., of Cambridge, was next called upon to testify. Mr. Ware is a son of the late William Ware, author of the "Palmyra Novels," &c. He is a lawyer, and an active and decided Free Soiler. He said that he was not present at the preliminary examination of Burns, but was present during the whole of the trial with the exception of a part of one afternoon session, when he was kept out by Mr. Jabez Pratt and a file of soldiers. A large number of other citizens were kept out in the same manner. He got in before the Court adjourned.

"Was there any opposition to the entrance of persons who stated that they were Southerners?"

"I saw several Cambridge students in the court room who told me that they got in by telling the offiers at the door that they were from the South."

"Could gentlemen obtain entrance by stating that they were Massachusetts men?"

"They could not on any pretense whatever."

"Who has control of the court room?"

"The United States Marshal seemed to have on that occasion. In ordinary cases, the Judge has."

Mr. Ware was asked to state his impression of Judge Loring's conduct of the trial.

Mr. Ware replied that in his judgment, and according to his observation, Judge Loring's conduct of the trial was deliberate, fair and courteous, remarkably so for a slave Commissioner, and, as compared with the conduct of previous cases.

Mr. Ware was then asked what he thought of the mode or manner in which the final decision was made.

He replied, "I thought that Judge Loring gave due weight to the testimony, and considered matters, and weighed the doubts with due deliberation. I do not mean to say that I agreed with the conclusions at which he arrived, and speak only of the *manner* in which he conducted the trial. His manner of conducting the trial was entirely satisfactory, excluding the first day's proceedings, of which I know nothing. I however make one exception to this remark, which is that it is not customary for Masssachusetts judges to sit surrounded by armed men."

Mr. Dana enquired if there were armed men in the Court Room?

Mr Ware replied that there were a large number of them, armed with revolvers which they openly displayed.

Mr. Dana had not observed it. Other gentlemen present confirmed Mr. Ware's statement that there were armed men present—about sixty of them in the Court Room.

It may be well to state that notwithstanding Mr. Ware's favorable impressions of Judge Loring's conduct of the trial, he is strongly in favor of the Judge's removal.

Mr. Phillips read a letter from Mr. Ellis, written at the time of the trial, and also a portion of a speech which he himself had made during the trial, and which was reported by a phonographer, both tending to show that Judge Loring's conduct was regarded by them, at that time, in an unfavorable manner.

Mr. Dana then, at the request of the Committee, made a careful and elaborate statement of his observation of the whole conduct of the trial and his impressions derived from what he saw. A full report of this was taken which we shall publish hereafter.

At two o'clock the Committee adjourned to four o'clock this afternoon, when Messrs. Philips, Parker, and others are expected to put in testimony to rebut that of Messrs. Dana and Ware.

The case of Judge Loring.

Yesterday we gave an account of the hearing by the Committee in the case of Judge Loring, up to the time of adjournment at two o'clock. From a report in one of the morning papers, which we presume to be accurate, we copy the following sketch of the evidence given in the afternoon:

"Charles M. Ellis was sworn, and narrated the circumstances attending the trial of Burns, giving an account of the efforts made by himself and Mr. Dana to obtain a delay in the trial of Burns on the day when he was first brought into Court. He was indignant at seeing Judge Loring proceeding with so much haste in the matter, because he believed it to be unjust, unlawful and disgraceful. The trial was going on, and papers were being read; in fact all the evidence upon which the Commissioner based his decision, with the exception of the admissions of Burns, had been received by Mr. Loring. In his opinion, if the delay had not been urgently pressed, Burns' trial would have gone on, and he would have been sent back to slavery within an hour. Judge Loring had appointed him no counsel, and manifested no disposition so to do. The witness asked that Burns might have a trial before a free and open Court, not packed with blackguards, or surrounded by soldiers, but Judge Loring said he could do nothing about it, and that the case must go on as it had begun. The witness did not doubt but that Judge Loring had made his decision known to some persons before it was publicly delivered.

On Thursday evening, before the public decision on Friday, a gentleman called at his house and informed him that Marshal Freeman had that evening told him that Burns was to be carried back. This gentleman did not wish to have his name disclosed, but at the request of the Committee Mr. Ellis gave his name—Mr. John M. Way. Mr. Ellis also stated that he was told on the forenoon of the same day by Mr. Conway, a native of Virginia, and a student in the Divinity School, that he knew several Virginians were stopping at the Revere House, and that it was their intention, if Burns was declared freed, to seize him, either by force or a new warrant, and take him back to Virginia, trusting to a legal justification there. Mr. Ellis also stated it to be his belief, though not derived from personal knowledge, that the Mayor and the Chief of Police were informed in advance what the decision would be. As to the judicial conduct of Judge Loring, it was his opinion at the time, (and he thought Mr. Dana shared it,) that it was illegal and unjust.

Rev. Theodore Parker was next called. He reviewed some of the circumstances of the Burns trial, and testified among other things that Mr Dana remarked that he was glad Batchelder was killed—that it was the general expression. He was glad of it because Batchelder did not belong there, but went in for his pay; and, he added, 'he has got his corn.' Mr. Parker also stated that he went to the Court House with Mr. Dana, remained with him there, and left the Court House with him, each day during the trial; and that Mr. Dana characterized the conduct of Judge Loring as atrocious—the only commendation he bestowed upon it being that it was not so bad as G. T. Curtis's in a similar case. Mr. Parker stated his impression of the trial to be that Judge Loring's personal demeanor was that of a gentleman, but it seemed to him that he used all the advantages of his position to the detriment of Burns; that he went out of the way repeatedly, and as often as occasion offered, to oppress the man before him.

Wendell Phillips was next called, but said he could not add anything to the testimony already before the committee.

The hearing then, at 6 o'clock, closed."

The result of this re-hearing would seem to be decidedly unfavorable to Judge Loring. Even Mr. Dana's testimony was, in parts, strongly against him, because Mr. Dana as a *witness* before the Committee felt it to be his duty to state things, which, as an *advocate* before the Committee, he had not considered it best to mention.

Mr. Grimes, we believe, had been relied on to testify in Judge Loring's behalf. Even the leading abolitionists believed him to be favorable to Judge Loring. But before the Committee he indignantly denied that he came to testify for the Judge. His testimony was against him so far as it went. His impressions of the Commissioner's conduct were highly unfavorable.

The next witness, Mr. Ware of Cambridge, testified that Judge Loring's manner of conducting the trial was fair, courteous and deliberate. He was, however, not present *at the preliminary hearing*, which was the part of the trial in which the conduct of the Judge has been chiefly complained of. In fact, we are not aware that any one has accused him of improper conduct while on the bench, except *at the preliminary hearing*. Mr. Ware's testimony, therefore, scarcely touches the case, though it was proper that Judge Loring should have the benefit of it, so far as it went. He stated that he did not mean to be understood as approving Judge Loring's decision, and he evidently considered it improper for the Court to sit in a room filled with armed men.

From the report of the evidence yesterday afternoon, which we give above, it will be seen that the testimony of Messrs. Ellis and Parker is very strong against Judge Loring, and also tends to show that Mr. Dana has experienced a change of opinion since the period of the trial of Burns.

We take this opportunity to mention that our reporter was mistaken yesterday in asserting that Mr. Ware is "strongly in favor of Judge Loring's removal." He doubts its expediency.

The Case of Judge Loring---Correspondence.

The Boston *Journal*, in some comments on the recent hearing in the case of Judge Loring, has following remarks:

"The re-hearing in the case of Judge Loring looks like a piece of contemptible trickery, in order to introduce new evidence unfavorable to the Judge. Dr. Stone, in asking of the House the recommitments of the reports, based his request upon the ground that Mr. Dana had other evidence to introduce in behalf of Judge Loring. At the meeting of the committee, however, Mr. Dana distinctly stated that he had no evidence to offer, and was not desirous of another hearing. But the other side had testimony, such as it was, which they were determined to introduce, and the introduction of which there is every reason to believe was the object of the hearing."

The following correspondence shows how groundless and unjust are the above charges against the Committee. Mr. Dana, it will be noticed, does not ask another *hearing*, but intimates to the Committee in an emphatic manner that, as the representative of the remonstrants against the removal of Judge Loring, he thought the Committee were bound to take Mr. Grimes's testimony. We are informed that he urged at different times upon several members of the Committee the importance of having the report recommitted for the purpose of taking the testimony of Messrs. Grimes and Ware. At the request of Mr. Dana these witnesses, together with Mr. Dana himself, were summoned to appear before the Committee. The questions put to Mr. Grimes were prepared in writing by Mr. Dana, and it certainly was not the fault of the Committee if Mr. Grimes's testimony was not what Mr. Dana expected it would be.

BOSTON, April 2d, 1855.

Dear Sir:—I wish to call your attention to your report with reference to what had taken place in connexion with the subject.

You will recollect that I suggested to the Committee that you should call before you the Rev. Mr. Grimes, who was the clergyman of Burns and his especial friend and agent, and who was particularly acquainted with most of the transactions, and especially that of which the bill of sale formed part. I suggested to you that Mr. Grimes was so situated that his impressions and recollections would be a good deal relied upon by the Legislature and the public. At the same time I said that I should call no witnesses myself, as I did not appear as counsel for Judge Loring or to represent any side or interest.

Your reply was positive that it was entirely unnecessary, that no one of the Committee would go upon the ground of misconduct, and that there was no dissatisfaction with the conduct of Judge Loring up to the time of the decision.

I afterwards mentioned the subject to another of the Committee, (Mr. Stone,) who told me distinctly that if the Committee decided in favor of the removal, it would be on the general ground that he had executed the law, and that the remonstrants need not trouble themselves on the question of conduct at all.

Now I find that not only has the Committee gone into the question of conduct, and presented evidence on that point, to have what effect it may, but, after these declarations to me, they procured new evidence against Judge Loring on the question of conduct and presented it at full length in their Report.

I have no request to make and shall offer no comment. As I am not affected by your report either in a personal or a representative capacity, I have nothing to suggest. But I desire to make known to you first, that this course has attracted the attention of the remonstrants, and that they may feel it to be a public duty to bring it before the Legislature; which I do, in order that you may take such course as you think proper without the necessity of making this a public affair. I think this is more just and fair towards the Committee.

I do not say that the remonstrants will take any action, even if you do not, but we shall feel at liberty to do so after this notice.

Very truly your obedient servant,
RICHARD H. DANA, JR.

Hon. O. W. ALBEE,
Chairman of the Committee on Federal Relations.

April 2, 1855.

Dear Sir :—I have just received your communication of this date in respect to the case of Judge Loring.

With regard to what Dr. Stone said I have nothing to say, as I was not present.

In respect to myself, I think you state the case broader than any language I used can authorise, certainly broader than I intended any language of mine to imply. You will recollect, that you and Mr. Phillips had just had a conversation in which you differed from him in respect to whether Mr. Loring's conduct, (in kindness and willingness to appoint counsel and postpone the case of Burns,) was such as it should have been. In a moment after you said to me, you would like to have Mr. Grimes called, as he was present at the trial and was the friend of Burns, and was present at the confcrence on Saturday night. I supposed, and my understanding at the time was that you wished him called in respect to the point of the case wherein you and Mr. Phillips differed, and I replied, according to the best of my recollection, that it would be unnecessary, as probably most of Mr. Burns's friends were satisfied with Mr. Loring's conduct up to the timc of the decision—meaning of course when taken in connection with the preceding conversation, his conduct in the Court room and the drafting of the bills, for thesc were the only points called in question at the time.

What particular impression different individuals had at the time of the trial, in respect to Mr. Loring's kindness, had no particular bearing upon the case, and therefore I did not regard it necessary to hear further testimony on this point.

The Committee had announced before, that this was to be their last hearing; it had been put off one week that you might appear, and they supposed all the evidence would then be put in. More than this, you said you should call no witnesses. Had you pressed the case as you now do, the committee, I have no doubt, would have called Mr. Grimes. Certainly I should have urged it.

I now disclaim any intention to shut out any evidence that can possibly bear upon the material points in the case.

The Committee will use their best endeavors to have the case recommitted, and will, if possible, give you a hearing to-morrow, at 9 oclock, A. M., in the room over the Green Room. We hope all the evidence will be put in at that time.

Very respectfully,
O. W. ALBEE.

RICHARD H. DANA, Jr., Esq.

BOSTON, April 3, 1855.

My Dear Sir :—Before your letter of April 2nd was received by the Committee, the whole matter of re-commitment of the case of Edward Greely Loring had been concluded in the House, altho' Mr. Albee, when he wrote to you, was not aware of it. I understood, both from information received from the Chairman of the Committee and from conversation with you, that you desired, much more strongly than you have since intimated in your communication, to have the report re-committed to the Committee for the purpose, particularly, of hearing the testimony of the Rev. Mr. Grimes.

About the time of your argument before the committee, you expressed a desire to have the Rev. Mr. Grimes summoned as a witness to testify concerning some differences of evidence between Messrs. Phillips, Parker and Ellis on the one side, and yourself on the other, especially with reference to the question of irons upon Burns at the time of the trial, thc kindness and fairness of Judge Loring, his disposition to postpone the case, and whether, in his view of the subject, the general conduct of Judge Loring was objectionable.

So far as these points were concerned, I intimated that the principal ground upon which the Committee would act, if it favored the removal, would not be upon incidentals, which might be introduced, but upon the main question involved in the transformation of a man into a chattel. Even Judge Loring's pre-judgment of the case, as shown by the testimony, would serve as a collateral circumstance only. I did not understand you, until since the report has been made to the House, to press for the testimony of Mr. Grimes, but rather to throw out an intimation of a desire for his evidence, as a suggestion merely.

The committee have no opposition to Judge Loring as an individual. Their object is simply to prevent in future, as far as possible, the extradition of alleged fugitive slaves from the soil of Massachusetts; and particularly, that it shall never be done in disregard of the right of trial by jury, and of the privileges secured by the writs of *habeas corpus* and *de homine replegiando*. They believe that this object can be more thoroughly accomplished by the removal of Judge Loring than by pursuing any other course.

Your obedient servant,
JAMES W. STONE.

RICHARD H. DANA, Jr., Esq.

Evening Telegraph.

BOSTON, FRIDAY, APRIL 6, 1855.

Petitions for the Removal of Judge Loring.

The tota number of petitions for the removal of Edward Gr eley Loring from the office of Judge of Probate for the County of Suffolk is 133, upon which are 12,373 signatures. Against the removal are six remonstrances with 1424 signatures.

The petitions for the removal come from every County in the State except Nantucket and Dukes County. They are apportioned throughout the State as follows:

Counties.	Regular Form.	Women.	Various Forms	Total Petitions.	Total Signatures.
Barnstable,	3	1	0	4	114
Berkshire,	2	0	1	3	82
Bristol,	2	1	3	6	486
Essex,	6	4	3	13	1567
Franklin,	0	1	3	4	141
Hampden,	6	1	1	8	532
Hampshire,	0	1	2	3	120
Middlesex,	15	3	4	22	1617
Norfolk,	5	6	1	12	1313
Plymouth,	12	0	0	12	1137
Suffolk,	13	1	3	17	2439
Worcester,	17	12	2	31	2861
	81	31	23	135	12,409

The regular form of 81 of the petitions was as follows:

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts:

Whereas, Edward Greely Loring, Judge of Probate in and for the County of Suffolk, has caused an inhabitant of this Commonwealth to be sent into slavery; we do pray your Honorable Bodies to take proper steps for the removal of the said Loring from his office of Judge of Probate, and as in duty bound will ever pray.

To this was appended 7962 signatures.

The following note accompanied the petition from West Springfield.

Mr. Bowditch—I am sorry not to be able to send you more signatures. The other copy which you sent me, and likewise a petition for the protection of personal liberty, &c,, were left at the Post Office in this place, for signatures, and were stolen by the Union Savers. RICHARD BEEBE.

A portion of the petitions of the above regular form were printed and a part were written.

Of the petitions signed exclusively by women, 31, signed by 2837 persons, were in this form:

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts:

The undersigned, women of Massachusetts, respectfully pray your honorable bodies to take proper steps for the removal of Edward Greeley Loring from his office of Judge of Probate, in and for the County of Suffolk. They ask this action on the ground of his infamous decision of the 2nd of June last, under the Fugitive Slave Act,—a decision which points him out as wholly unfit for the duties of an office, which, taking cognizance of the rights of widows and orphans, requires that its incumbent should be alike just and merciful.

Then, signed by 1610 persons, are twenty-three more various forms of petitions for the same object, making in all 25 varieties of form of petition, contained on 135 petitions.

Of the whole number of petitioners, 2299 were from Boston, 711 from Abington, 502 from Springfield, 388 from Millbury, and 278 from Milton.

Among the various forms of petitions presented are these, each headed with the customary form of petition to the Legislature:

Petition from Greenfield.

We, the undersigned, inhabitants of Greenfield, Franklin Co., respectfully request that you would institute such proceedings as will cause the immediate removal of Edward G. Loring from the office of Judge of Probate of Suffolk Co. In doing this, we feel that we are performing a duty which will be responded to by all true men of the Old Bay State, with whatever political party they may have hitherto acted. That a man of Massachusetts should be so lost to all the better feelings of humanity as to engage in the rendition of Fugitive Slaves, seems to us to render him unfit to discharge the duties of a just Judge. Signed by Lewis Merriam and 90 others.

Petition from Marlboro'.

The undersigned, legal voters in the town of Marlboro', mortified and indignant that any officer under the laws of Massachusetts, and especially one to whom are confided the interests of widows and orphans, should lend himself to the degrading work of executing the (so called) Fugitive Slave Law, an enactment believed by many of us to be *unconstitutional*, and held by all of us to be *in amous*, do, therefore, humbly but most earnestly, pray your Honorable bodies to take immediate steps for the removal of Edward G. Loring from the office of Judge of Probate for the County of Suffolk. Signed by Hollis Loring and 76 others.

Petition from Dartmouth.

Whereas Judge Edward Greeley Loring has made himself obnoxious to the people of this State for his disgraceful participancy in sending poor Burns back to slavery, we, the undersigned, citizens of Bristol County, respectfully request that he may be removed from all or any office he may hold under this Commonwealth. And as in duty bound will every pray. Signed by William Anthony and 36 others.

Petition from Springfield.

Whereas, Edward Greeley Loring, Judge of Probate in and for the County of Suffolk, has, by his official conduct in connection with the Fugitive Slave Law, violated the moral sense of the people of Massachusetts, and acted in a manner unbecoming a functionary of its government; we do pray your honorable bodies to take proper steps for the removol of the said Loring from his office of Judge of Probate, and as in duty bound will ever pray. Signed by Samuel Bowles, Editor of the Springfield *Republ can*, the leading Whig paper of Western Massachusetts, and 66 others.

Petition from Lawrence and Methuen.

As the grand object of the great and good in all ages has been to build up the cause of humanity, and as compassion for the poor and oppressed was the most distinguished and lovely trait in the Divine Nazarene, we, citizens of Lawrence and Methuen, heartily join those who have petitioned you for the removal of the present Judge of Probate in the County of Suffolk, believing that he has shown himself deficient in that integrity which is the glory of a Judge, and in that humanity which is the essence of law and religion. And we are confident that we express the wishes of at least nine tenths of the people of this State.

As some of our fellow citizens are exposed by their complexion to the horrible fate of Solomon Northup, we also pray you to pass a law that no person hereafter shall be carried out of this State as a slave, without trial by jury, to determine whether his services are *justly* due to his claimant; believing that no jury of common sense would say a man owed service to one who had robbed him of all his past services; nor knowingly consign the innocent to a horrible punishment. Signed by William Huse and 35 others.

The petitions remonstrating against the removal, sre six in number, two from Boston with 1,119 signatures, from Brighton with 105, Danvers 15, Marblehead 133, and from North Chelsea with 52, making in all 1,424 remonstrants.

Remonstrance from Boston.

The undersigned, citizens of this Commonwealth, respectfully represent that they have learned that petitions have been presented to your Honorable Bodies, praying you to address His Excellency the Governor, for the removal of Edward G. Loring from the office of Judge of Probate in the County of Suffolk, *by reason of matters unconnected with the discharge of the duties of that office.*

The undersigned are of the opinion that the removal of a judicial officer in the manner prayed for, for the reasons assigned by the petitioners, would be not only a novel measure, contrary to sound policy, and a dangerous precedent, but also in violation of *the spirit* of the Constitution.

And we therefore respectfully ask that the prayers of said petitioners may not be granted

Signed by S. S. Wilde and 173 other members of the Suffolk Bar. Among the signers are three of the Curtis', viz: Charles P. Curtis, C. P. Curtis, Jr. and *George T. Curtis.*

Petition from Brighton.

The undersigned, citizens of Brighton, respectfully represent to your Honorable body that the petition of certain individuals asking for the removal from the office of Judge of Probate of the Hon. Edward G. Loring, is in our opinion highly *indecorous and unprecedented*, and ought not to be granted. And as in duty bound will ever pray. Signed by Edward Sparhawk and 104 others.

Petition from Danvers.

The undersigned, citizens of Danvers, having seen with regret petitions for the removal of the Honorable Edward G. Loring as a Judge of Probate for the County of Suffolk, would respectfully remonstrate against the same.

The fact [what is fact nominative case to?] that no misconduct, either in his capacity of Judge or as a citizen, is alleged against Judge Loring, but, on the contrary, that he is esteemed wherever he is known, as an upright Judge and an exemplary citizen, and that the only pretext for his removal, so far as your remonstrants have learned, is, that he performed with fidelity an unpleasant duty, in an office to which he was appointed by the government of the United States—*a duty binding upon him, under a solemn oath, to perform*, in like manner as the performance of similar duties is binding upon each of our Senators and Representatives in Congress, and upon all others who take an oath to support the Constitution and laws of the United States; to remove Judge Loring under such a pretext, would, your remonstrants respectfully believe, be abhorrent to every sense of justice and right, and entail upon the name of Massachusetts a blot which years would not obliterate.

The undersigned would not interfere in a matter which concerns mainly the citizens of Suffolk Co., but that the petitions for the removal of Judge Loring, as they have learned, have chiefly proceeded from other counties, and thus the question has become a general one; but aside from this, your remonstrants humbly think, is one which appeals to the feelings of every citizen who loves

truth and justice, and whose every sentiment must revolt at the spectacle of a virtuous citizen and just magistrate, publicly dograded without a cause. Signed by George Osgood and 14 others.

A petition, with 300 signatures, *in favor of* the removal, was sent from the same town.

DAILY ADVERTISER.

BOSTON:

TUESDAY MORNING, APRIL 10, 1855.

PROPOSED REMOVAL OF JUDGE LORING.—This is the day assigned for the further consideration in the House of Representatives of the Address for the removal of Edward G. Loring from his office as Judge of Probate.—The idle ceremony of the recommitment of the Address and its subsequent report anew by the committee seems to have been a part of that management which has sought to give a dramatic effect to a matter truly grave and solemn.

The most serious attention ought to be given to the consideration of this important matter. The only guaranty of the independence of the judiciary lies in the firmness, the good sense and discretion of the legislature and the executive. If members shall suffer passion to master principle, and listen to the appeals of prejudice rather than to sound reasoning, they will be false to their duty. We cannot believe that they will be thus false.

We have already expressed the opinion that this is the most important subject of the session. It is the test by which the present legislature will hereafter be judged. Whatever indiscretions or mistakes may be made in other respects, if in deciding this question members show that they are animated by no narrow views, but act with firmness and manliness in opposing the fanatical attack on the independence of the judiciary, they will be honorably remembered in all future time, while Massachusetts remains—as may she ever—a free republican commonwealth.

the Kidnapping of Anthony Burns

1854

Part IV.

DAILY ADVERTISER.

Kimball of Salem, Perry of Provincetown.

REMOVAL OF JUDGE LORING.

At eleven o'clock, according to special assignment the House proceeded to the consideration of the Reports of the Committee on Federal Relations, recommending the removal by the Governor, of Edward Greely Loring, from the office of Judge of Probate for Suffolk county.

Mr. Swift of Boston, supported, in a speech of one hour and three quarters the report and the passage of the concluding resolve. At its conclusion, the audience, consisting of about as many strangers as members of the House expressed their approbation by stamping of feet. Adjourned.

Evening Telegraph.

BOSTON, FRIDAY, APRIL 13, 1855.

The orders of the day were taken up, the first business being the consideration of the report of the committee on Federal Relations, for the removal of E. G. Loring.

Mr. Knowles of Eastham, a member of the Committee, took the floor. He had always been a Whig, he said, and was going on to speak of certain domestic relations between Mr. Huntington and Judge Loring, when Mr. Huntington rose to explain that certain statements of relationship which had been circulated were incorrect.

Mr. Warner also rose to make a personal explanation, stating that a story was in circulation that he was a Congregationalist clergyman last year and this year was a Unitarian. The mistake arose from an error in the book of Mr. Poor.

Mr. Knowles went on stating that he did not consider the explanation of Mr. Huntington helped his position at all. He then further reviewed the argument of Mr. Huntington. As to the amendment proposed, he was entirely opposed to it. It was not in the power of the Legislature to remove Judge Loring, except in two ways, and the amendment would not reach him, but would only place the House on their knees before Judge Loring asking him to resign.

Mr. Davis of Fall River urged several points against the amendment. It winks out of sight the whole matter before the House. This is a matter in which Massachusetts as a State, is involved. The reception which her agents have met at the South, is well known. This is but an issue between the South and the North, For this reason he would not avoid a direct issue. The sentiment of Massachusetts is anti slavery. It is opposed to the sentiments of South Carolina and of Louisiana. When the Nebraska act was passed, a victim was demanded from Massachusetts, and they came and took the man on whom Massachusetts has placed its ermine to be their instrument. He did all the South asked him to do, and more, for he did the deed illegally; and he did it with avidity. The question is, shall we suffer that polluted ermine to remain? No. He is polluted from the crown of the head to the sole of the foot. He strongly urged the House to reject the amendment and adopt the report.

Mr. Brown of Fitchburg stated the following reasons for his vote for the removal of Judge Loring:

1. Judge Loring voluntarily accepted of the office of Commissioner, knowing the hostility of Massachusetts sentiment against the fugitive slave law.

2. In accepting that office he became obnoxious to the public sentiment of a large majority of the people of this Commonwealth, thereby acting against both their "wishes" and "feelings," and arraying himself against the sentiment of the great body politic of the State.

3. It seems incompatible with the spirit and genius of our institutions, to allow a man to sit as a judicial arbiter, and that, (by state authority) over the tempered welfare of our fellow citizens, who has "proved" himself unqualified to judge "impartially," where were not only involved mere dollars and cents, but, the more lofty and transcendent question, whether a man has a right to himself—"whether he is a man," or a chattel.

4. We are not here to act upon mere feeling or sympathy, upon this question, but upon the great cardinal "principle" of "justice" and right, therefore it seems proper and right for us to pass our judgment upon the "propriety" of a Judge of this Commonwealth retaining his office, as such, while at the same time he holds "voluntary official" allegiance to a higher power for the sole and determined purpose of executing a law that is subrisive of the *great organic* principles contained in our Bill of Rights, and substantially recognized in the Constitution itself.

We are bound as the representatives of the people of Massachusetts to erect an unmistakeable monument, to guide all future officers of this commonwealth. So far as they hold their official tenure with the State, not so much to scathe and sacrifice the man, but in the most *unequivocal* terms to condemn the *act*, and the *servile and determined spirit* in which that act was committed.

Mr. Stone of Boston then addressed the House about fifteen minutes, when after a brief explanation by Mr. Williams of Cambridge as to the effect of the clause in the proposed amendment for removing by address of the Legislature forthwith, and also a brief explanation by Mr. Warner of Northampton, the hour for taking the question having arrived the vote was taken by yeas and nays.

The result of the balloting was announced as yeas 153; nays 184. So the amendment was lost.

Mr. Huntington of Northampton, rose to propose another amendment, when Mr. Warner of Northampton raised a point of order that the question having been ordered to be taken by assignment no other business was in order till the vote was taken.

Mr. Huntington called for a reading of the Journal of the House, which was done by the Clerk from the printed copy distributed among members, when it was found to contain an error relative to the person who moved the taking of the vote yesterday.

The Speaker, in answer to the point of order raised, was about to rule that the motion of yesterday was that at twelve o'clock, Friday, the vote "on this matter," was to be taken, and consequently was first to be taken on the amendment and then on the main question at once, when

Mr Huntington said he was not ready to have the ruling of the Chair yet. He wanted to hear the Journal read, not the printed Journal, which was but a copy, but the clerk's regular Journal, which was the official record of the House. He did not desire to proceed in confusion and not knowing what they were about.

He was not accustomed to be gagged, and did not intend to be in this case. He thought the Chairman of the Committee was in haste to press the matter through.

Mr. Warner replied that it was not the fault of the Committee that the House was in this confufusion, and they had not pressed this matter. He would submit to the House whether the trouble did not originate from the gentleman and his friends, who introduced their amendment so late that time was not given for discussion.

The Speaker said the Journal must be read in obedience to the call, when it was found that the manuscript journal was at the printers, and it had to be sent for, occupying fifteen or twenty minutes.

Mr. Sisson of Westport, asked if a motion to adjourn was in order, and the Speaker ruled it was not till the Journal had been read in obedience to the call and the proceedings of yesterday verified.

A period of hubbub and loud conversation followed, the House being in great excitement.

At five minutes to one, the Journal was read, and found to read that the motion was made by Mr. Huntington that when the vote be taken on the substitute it be by yeas and nays, when Mr. Knowles of Eastham moved that 12 o'clock, M., be assigned for taking the vote on the same; but the Clerk at once stated the record was erroneous inasmuch as the last motion was made by another gentleman, and did not state the motion as made, as he was led to think when the Journal was made up.

Mr. Hawley of Springfield, said he made the last motion, and it was in these words: "That tomorrow, at 12 o'clock, be assigned for taking the question on this subject."

After explanation from Mr. Huntington, as to his views, the Speaker stated to the House that the motion to take the question at a given time was equivalent to the ordering of the previous question, and more than that, when the motion was made he turned to the gentleman from Springfield and asked him to what he wished to apply

his motion, and he replied audibly that he meant the whole question. He ruled, therefore, that any amendment now offered would be out of order.

Points of order were discussed by Messrs. KIMBALL of Salem, WARNEB of Northampton, and TAFT of Upton, when Mr. JOHNSON of Lawrence, appealed from the decision of the Chair.

After explanations, the appeal was withdrawn, and the question put, Shall the Journal be confirmed by the House?—when Mr. TAFT moved that the whole subject be laid on the table.

Before the vote was taken on this, the Speaker said he would withdraw from his position, and throw himself on the Journal, and the question was on the adoption of the address reported by the Committee.

A motion to adjourn was then made and carried amid great confusion.

[By the *Telegraph* Reporters.]

WEDNESDAY, April 11, 1855.

HOUSE.

AFTERNOON SESSION.

Mr. HUNTINGTON resumed his remarks on the matter of E. G. Loring. He took up a bill, called a personal liberty bill, which has been printed as it came from a committee of the House, but which has not been reported to the House, for some reason or other. The first section of that bill treats the law of 1843 as not in force. The bill should have been passed several weeks since, and then they should waited to see whether Mr. Loring would disregard it, before they proceeded to addressthe Governor for his removal.

The manner in which the Committee had professed to quote from the resolutions of the Legislature of 1850 was then commented upon. He said the Committee had taken parts of the first and second resolutions and combined those parts in one resolution, and he read from the two sets of resolutions to show the change which had been made. The portions left out of the resolutions concede the right of congress to legislate with reference to trial by jury, and that the law of 1843 was nullified. This shows that we are all under the influence of old party predilections which disqualify us to act in this case.

But when the fugitive slave law passed, Massachusetts yielded to it, and her course has been to lead men to enforce it We have no right to require a higher standard of justice or morals of a judge of Massachusetts, than Massachusetts herself has set up. Daniel Webster said, "that law is necessary for the preservation of the Union, and we must conquer our prejudices and carry it out." And the people said, Amen. Not until you will write "kidnapper" on the tomb of Daniel Webster can you call Judge Loring a kidnapper. It was never intended by the fugitive slave law that the slave should have any hearing; and every delay granted by Mr. Loring was contrary to the spirit of the fugitive slave law.

The course of Prof. Stuart and President Lor in defending slavery, was commented on with du severity.

Mr. NEALE of Boston, asked if the speaker undertook to saddle the notions of Prof. Stuart an Dr. Lord on to the Orthodox church?

Mr. HUNTINGTON—No sir, they saddle themselves. (Laughter.) Then Dr. Dewey came forward and said he would send his brother (not hi mother) into eternal slavery to save the Union Are all these higher gentlemen to be passed by and the lower ones like Mr. Loring, to be visited with condemnation for enforcing a law which ha so many supporters? Had we not better let bygones be by-gones, and start anew?

The language of Governor Boutwell in his inaugural in 1851, was quoted to show that the feeling of Massachusetts at that time was one of acquiesence and submission. In 1852 some milk and water anti-slavery resolutions were introduced into the Legislature, and they were laid on the table on motion by Gov. Gardner. The feeling of Daniel Webster toward the election of Mr. Pierce was said to be favorable; and so was Boston in his favor. Governor Clifford in 1853 referred to the language of Daniel Webster, and his course as a guide for Massachusetts. Mr. Loring then only coincided with Massachusetts. Does the true hunter, after he has abandoned his business, shoot down the pointer that has aided him in securing the game?

The course of many leading men in the Free Soil party was then commented upon, and what he regarded their errors on the slavery question pointed out. Mr. Wilson's course in the Senate was referred to, and in reference to the several cases alluded to he said it appeared there were some sinners in all parties yet in Massachusetts, and he thought they had better all repent, and not judge Mr. Loring more severely than others are judged.

If Judge Loring is to be punished, has he not been punished sufficiently? He has been deprived of one means of support to the amount of $1800 a year; and that undoubtedly on account of his action in the Burns case. In other ways he has been made to suffer for the same reason.

When Massachusetts is ready for nullification, for a good cause, no one would be more forward than himself then; but she is not ready. It does not become Massachusetts to rebuke her citizens for carrying out the fugitive slave act. Let her first cast the beam out of her own eye. If Judge Loring is removed he believed the present healthy state of feeling on the subject of slavery would be lost. There are measures short of removal which are sufficient. He thought the removal would be a dangerous precedent, and would give future Legislatures an opportunity to remove judges because they had once belonged to a secret political organization. In conclusion, Mr. Huntington said:

I protest against the exercise of this high preogotive—the administration of this extreme medicine of the State—

First—Because it is unprecedented in the history of Massachusetts.

Second—Because it will tend to create a reaction of public sentiment, detrimental in the extreme to the cause of the slave and to the progress of free principles.

Third—Because the conduct of Massachusetts, since the passage of the Fugitive Slave Act, through her Legislature, through her Judiciary, through her Executive, through her leading political parties, through her press, her pulpit and her bar, with few exceptions, has been such as to induce her officers to acquiesce in and countenance its enforcement, and until the repeal of the Missouri Compromise.

Fourth—Because to dismiss a judicial officer for violating a law of public opinion, is in direct violation of the spirit of the Constitution; and to dismiss him for the violation of a law which did not exist at the time of the act complained of was committed, would be essentially a violation of the first principles of common justice.

Fifth—Because it is neither a just or a necessary remedy, in order to prevent a like exercise of jurisdiction, by a Massachusetts officer, in cases arising hereafter, if such should occur, and because that object may be attained in a more direct and equitable mode.

Sixth—Because Massachusetts has no right to exact a demand from her officers a higher code of morals as to the fugitive slave act than that which, at the same time governed her own conduct.

The speech was listened to with great attention by a full House.

Mr GRIFFIN of Charlestown followed and said in commencing his remarks that if he were a clergyman h should take the following for his text: "And if it seem evil unto you to serve the Lord, choose ye this day whom ye will serve; whether the gods which your fathers served, that were on the other side of the flood, or the gods of the Amorites, in whose land ye dwell." He made a strong and clear argument in favor of the removal of Judge Loring.

Mr. WILLIAMS of Cambridge opposed the removal and gave notice that on Thursday a bill would be introduced providing that no man who holds a public office in the Commonwealth shall hold the office of United States Commissioner.

At 20 minutes before 5 o'clock the House adjourned.

DAILY ADVERTISER.

REMOVAL OF JUDGE LORING.

The orders were taken up and the debate on the resolve recommending the removal of Judge Loring was resumed.

Mr. SLACK of Boston, advocated the adoption of the resolve, replied to several points in Mr. Huntington's speech by the expression of a difference of opinion, and defended the course pursued by Messrs. Sumner and Wilson in the United States Senate.

Mr. VOSE of Boston alluded to the fact that nearly

all the professional gentlemen of the House are arrayed on the side of the freesoilers and against Judge Loring, without having as yet charged him with a single crime or offence against law. He spoke for some time in opposition to the resolve.

Mr. WILLIAMS of Cambridge moved to substitute for the resolve the bill alluded to by him in his speech of yesterday, relative to holding office under the laws of the United States, under certain circumstances, and after reading it he moved an adjournment which was carried. Adjourned.

Afternoon Session.

The bill offered this morning by Mr. WILLIAMS of Cambridge, provides that no person who now holds or may hereafter hold any office under the Constitution or laws of the Commonwealth, shall hold or continue to hold the office of United States Commissioner, or any other office under which he has authority to take cognizance of any case arising under the fugitive slave act of 1850; that any person holding any judicial office under the laws of this State who shall continue, for ten days after the passage of this act, to hold any such United States office, shall be deemed to have afforded sufficient cause for removal, by address under the Constitution of the State, and shall accordingly be forthwith so removed.

The House met at two o'clock this afternoon, and Mr. WILLIAMS made a brief explanation of the objects and effects of the bill.

Mr. STONE of Boston, the chairman of the committee on the part of the House, moved to lay the substitute on the table, and expressed the opinion that, if it should be adopted, the State would lose the services of several eminent men in the State who now hold United States offices, and made particular mention of Mr. George S. Hillard of Boston, as one who would be thus deprived of office. [Mr. Hillard is not a United States Commissioner, nor does he hold any judicial office under the laws or Constitution of Massachusetts.—REPORTER.]

MR. STONE was also opposed to the amendment as it would not meet the views of the large number of petitioners who had demanded Judge Loring's removal.

Mr. HUNTINGTON of Northampton asked Mr. STONE to withdraw his motion as it was one that must be decided without debate, and this being refused, Mr. HUNTINGTON raised a question—whether the motion, if carried would carry the whole subject with it. At first the SPEAKER decided that it would not, but after some conversation and consideration altered his opinion and decided that the whole subject would be laid on the table by the adoption of Mr. STONE's motion. Mr. STONE then withdrew his motion, and Mr. HUNTINGTON made a brief speech, in which he congratulated the Committee on Federal Relations on the expression of their doubt of the propriety of making it incompatible to hold offices under the State and United States Governments at the same time, as they do, by this action of the chairman. He alluded to their inconsistency in their desire under these circumstances of punishing Judge Loring, for exercising the office of United States Commissioner. In this doubt, which they now express, they remove entirely the corner stone of their report. He concluded by moving the yeas and nays on the motion to amend, and they were ordered.

Mr. PRINCE of Essex spoke for some time in favor of the resolve, and against adopting the substitute.

Mr. BOYNTON of Westboro moved the previous question, but afterwards withdrew his motion to allow Mr. WARNER of Northampton to make a speech in favor of the removal of Judge Loring.

Mr. WARNER is one of the committee who reported this resolve, or he would not have said anything on this subject. He thought that its adoption by the Legislature would express the real feeling of the people of this State, a feeling that is daily growing stronger.

On motion of Mr. HAWLEY of Springfield, it was voted that the question be taken at twelve o'clock to-morrow.

Mr. KNOWLES of Eastham obtained the floor, but as there appeared to be a general disposition to adjourn, he made a motion to that effect, and it was carried.

[By the *Telegraph* Reporters.]

THURSDAY, April 12, 1855.

HOUSE—AFTERNOON SESSION.

The House met at two o'clock, and Mr. WILLIAMS of Cambridge again resumed his remarks in reference to the substitute which he had offered, and explained its advantages. He thought it would secure all the friends of removal desired without exposing the great causes of Americanism and Anti-Slavery to hazard as they would be exposed by the removal by address.

Mr. STONE of Boston said the Committee doubted whether it was advisable for the Legislature to go so far as to declare the two offices of U. S. Commissioner and a Massachusetts judge incompatible. They would thereby compel men who do not believe in surrendering slaves to resign the office of Commissioner, and the cause of freedom would lose their services. For the reason that the substitute has not been reported by any Committee also, as well as for others, he was opposed to the substitute and moved to lay it upon the table, but but afterward withdrew the motion.

Mr. HUNTINGTON replied to the statement made by Mr. STONE, that the Committee doubted whether they should declare the two offices incompatible. He thought that admission knocked out the underpinning of his report. He had no fear to go so far as to say that a judge of Massachusetts should not act as a Commissioner. He was ready to say it now, and believed the majority of the House would say it. He called for the yeas and nays on the amendment when the question is taken, and they were ordered.

Mr. PRINCE of Essex, took the floor, and was going on in some remarks as to the paternity of the amendment, rather charging it in part upon Mr. HUNTINGTON of Northampton, when

Mr. HUNTINGTON disclaimed having originated the bill, but admitted that he did make some corrections in it.

Mr. PRINCE went on at length, answering many points made by Messrs. DEVEREAUX and HUNTINGTON. He was in favor of Mr. Loring's removal because he acted not only against the letter, but against the spirit of a law of this Commonwealth enacted in 1843. Secondly, because he prejudged the case. He spoke more than an hour in reviewing the arguments of gentlemen, and in a very effective manner.

Mr. BOYNTON of Westboro thought there had been sufficient discussion, and moved the previous question.

Mr. WARNER of Northampton opposed the motion for the previous question. He did not wish to avoid the issue of the direct question on the removal of Mr. Loring.

Mr. BOYNTON withdrew his motion for the previous question, and Mr. WARNER proceeded to address the House for the removal of Mr. Loring, in a most able and interesting speech, securing the undivided attention of the House, and evidently making a decided impression in favor of the views he presented. We regret that we did not know he was going to give so able a speech, so that we might have reserved space for its publication, but very unwillingly we are obliged to omit all except his closing remarks, which were as follows:

Let us deliberately and courageously act on this question, for it requires some courage even in this day, when our ranks are weakened—I will not say by the defection of such a man as my colleague; for I do not believe there is any truer or more consistent anti-slavery man in this Commonwealth than he—but in this day when an attempt is made to turn aside the real sentiments of this Commonwealth, when the people have asked us to remove this man from his position, when our constituents ask us in the first question with which they greet us on our return, "What are you going to do with Judge Loring? Why don't you carry through that matter?" For myself I feel that if I wish the approbation of my constituents and my conscience in this matter,—without revenge or hostility—if I wish the approbation of my God, if I wish to do a deed of which I shall not be ashamed when I stand before Him who knows the secrets of all hearts and who will judge the conduct of men in this life not by mere human laws and statutes and enactments, but by those eternal principles of justice and right which were established before you and I were were born and which will last when the constituaion of the United States shall have crumbled on the parchment on which it is written, I say to-day, solemnly and truly, that as I hope to meet the approbation of that divine being in

the final day of account, I shall cast my vote conscientiously for the removal of this Judge from his office. I shall not seek to evade the issue by the adoption of a substitute that will be greeted with triumph of the Pro-Slavery portion of this Commonwealth; I will not take away from the seriousness and solemnity of the action, and I will not seek to avoid the responsibility of it by voting for a substitute which I am persuaded would never have been introduced here by many who will vote for it perhaps, but which was brought in to give some gentlemen an opportunity to vote for it, because they feel that a majority of the Legislature are ready to do a deed which they cannot quite come up to, while they wish to go for a measure which will have a majority.

Mr. KNOWLES of Eastham took the floor, but gave way to a motion to adjourn at 20 minutes before four o'clock.

DAILY ADVERTISER.

BOSTON:

THURSDAY MORNING, APRIL 12, 1855.

REMOVAL OF JUDGE LORING.

The House took up the report of the Committee on Federal Relations, and the resolve recommending the removal of Judge Loring; and Mr. DEVEREUX of Salem resumed his remarks in opposition and spoke for three quarters of an hour. He alluded to the fact that so many of the petitioners are females, and to show the character of some of them he stated, as of his own knowledge, that one petition contained the names of eleven black people of one family interspersed throughout, no two together; that the head of that family had been a rum-seller; the husband of the eldest daughter is now the keeper of a low groggery; and the characters of the whole are of a similar kind. He did not say that all the petitions, nor in fact a majority of them, were like this one, but he thought that if they were examined by persons who knew the parties many such might be found. Under these circumstances he repeated what he inferred yesterday, that there was no proof that the people were in favor of the removal of Judge Loring.

Mr. CRAVENS of Attleboro followed, in favor of the report and resolve. His speech was principally in reply to Mr. Devereux. His reason for voting for the removal was summed up by him in the fact that Judge Loring lent himself to carry out a "foul wrong, a deep and damning sin." He took occasion to speak of the Boston newspapers in very bitter terms, and denied that they were ever the exponents of public opinion.

Mr. HUNTINGTON of Northampton, commenced, at five minutes after twelve o'clock, to oppose the adoption of the resolve. He said he approached it with fear, for several reasons. He reminded the House that the legislature is in this instance a body of Judges sitting to try a Judge. He alluded to the fact that he does not belong to the same political party with Judge Loring. He feared to sit in this case because the Fugitive Slave Law is Constitutional. The Judge acted under it as is required by the Constitution, and this action is bringing the legislature and the Constitution in opposition. He objected to the proposed action that Judge Loring, who is on trial, has no counsel, that the evidence is not before the House; that there was no cross examination of witnesses before the Committee; that the witnesses ought to be brought face to face before this branch of the House, if this House is to Judge of their testimony; that there is a conflict in matters of fact as reported by the Committee, &c. He pointed out that the Committee had stated as a fact, an incident which their same report proves to be untrue.

Mr. HUNTINGTON went fully into an examination of the charge of misconduct made by the Committee against Judge Loring, in relation to the purchase and bill of sale of Burns, and proved by facts that in this instance, at least, he did all that he could do and was not in fault at all.

Mr. HUNTINGTON said the whole *turns* on the question whether Judge Loring has violated the provisions of the law of Massachusetts. The gentleman who spoke yesterday said he had,—and that it was mere special pleading to assert the contrary. Mr. H. then examined the law and its items, showing that it does not apply to Judge Loring, who is not even a Judge of a Court of Probate. He contended that it is a perversion to say that Judge Loring comes within the provisions of the law of 1843, and if he had come in within its provisions he would have been indicted under it long before now.

Mr. HUNTINGTON further contended that Judge Loring had not violated the law of 1843 even if he came within its provisions because the United States law of 1850 suspended and abrogated the law of Massachusetts, of 1843, just as the United States Bankrupt Law of 1840 suspended the Insolvent laws of Massachusetts. The law of 1850 took from Judges and Justices of the Peace and all other State officers all power and jurisdiction in the case of fugitive slaves, and gave it to a tribunal of its own. Therefore the law of 1843 could not be violated—no one could act under it.

At one o'clock, on motion of Mr. HUNTINGTON, who had not concluded his speech, the House Adjourned.

Afternoon Session.

Mr. JOHNSON of Lawrence, owing to the non-arrival of Mr. HUNTINGTON, moved to lay the subject before the House on the table, and this was refused 46 to 67. Mr. VOSE of Boston, then moved that the House have a recess of fifteen minutes which was not agreed to. In the mean time Mr. HUNTINGTON came into the Hall, and the question being still on the subject of

THE REMOVAL OF JUDGE LORING,

He resumed his speech.

Mr. HUNTINGTON repeated that the law of this State passed in 1843, is not, in any sense, in letter, or in spirit, in existence. He then alluded to a bill already reported by the same Committee which has reported in favor of the removal of Judge Loring, which has been printed, and why it has not been passed, why it is not even now in the orders of the day, he could not surmise; this bill, called originally a bill for the preservation of personal liberty, contains, in its first section, an admission that the law of 1843 is not, in letter, nor in spirit, in existence—that it has no vitality whatever.

In examining the reasoning of the Committee, Mr. HUNTINGTON stated and charged, that the Chairman, in quoting in reference to the Fugitive Slave Law of 1850 had mutilated that law. This charge he proved by reading extracts from the law and from the report.

To show the inconsistency of punishing Judge Loring for his action under the law of 1850, Mr. HUNTINGTON contended that the public, nearly every body, from Daniel Webster down, through all classes of society, not only acquiesced in that law but declared it to be constitutional. He alluded to the writings of Dr. Stewart of Andover, Dr. Lord of New Hampshire, Dr. Dewey of New York, stating that the Church, almost universally sustained that law, excepting the Baptists, Universalists, and Methodists. On being asked by Mr. NEALE of Boston, if he understood Mr. H. to saddle the support of the Fugitive Slave law on the Orthodox denomination, Mr. HUNTINGTON replied "No, Sir, they saddled themselves with it." Governor Boutwell supported it and the legislature of 1851 refused to pass Mr. Buckingham's bill in relation to that law. From these and other facts which he stated at length and in detail, Mr. H. argued that it was not just nor consistent to follow up and persecute and make a victim of Judge Loring, who has not done more than perform his duty in obeying a law that every class of society pronounces constitutional and says should be obeyed.

He contended that there is no necessity for making a martyr and a victim of Judge Loring; and that if he is so victimized, a class of men will be arrayed against the free soil party such as it has never yet had in opposition to it. It will produce a reaction which will be tremendous.

In conclusion Mr. HUNTINGTON said he protested against the exercise of this high prerogative—the administrature of this extreme medicine of the State.

First—Because it is unprecedented in the history of Massachusetts.

Second—Because it will tend to create a reaction in Public Sentiment detremintal in the extreme to the cause of the slave and to the progress of free principles.

Third—Because the conduct of Massachusetts since the passage of the Fugitive Slave Act through her Legislature, through her Judiciary, through her Executive, through her leading political parties, through her press, her pulpit and her bar, with few exceptioas has been such as to induce her officers to acquiesce in and countenance its enforcement until the repeal of the Missouri Compromise.

Fourth.—Because to dismiss a judicial officer for violating a law of public opinion is a direct violation of the spirit of the Constitution, and to dismiss him for the violation of such law not known to exist at the time of the act complained of, would be essentially a violation of the first principles of common justice.

Fifth.—Because it is not either a just or a necessary remedy, in order to prevent a like exercise of jurisdiction by a Massachusetts officer in cases arising hereafter, if such should occur—and because that object may be attained in a more direct and equitable mode—and

Sixth.—Because Massachusetts has no right to exact of her officers a higher code of morals as to the Fugitive Slave Act than that which at the same time governed her own conduct.

At four o'clock Mr. HUNTINGTON finished his speech, and he was followed by Mr. GRIFFIN of Charlestown in reply. Mr. G. advocated the passage of the resolve in a speech of about twenty minutes.

Mr. WILLIAMS of Cambridge, opposed the removal; he said he sympathized with those who advocated it, but he did not think their object could be obtained by this course so well as in some other way. He thought it would be better to pass a resolution asking Judge Loring to resign, and he believed Judge Loring would do so in deference to the opinions and wishes of the Legislature. He concluded by reading a bill which he said will be proposed to the House to-morrow morning,—being a bill providing a penalty for persons holding any office under the State who shall take any action under the United States Fugitive Slave Law of 1850.

At twenty minutes before five o'clock the House on motion of Mr. SLACK of Boston, adjourned.

PROPOSED REMOVAL OF JUDGE LORING.—The attention of the House of Representatives was chiefly occupied yesterday with the consideration of the Address for the removal of Judge Loring. Mr. Devereaux of Salem concluded his thorough review of the subject, in opposition to the removal, and Mr. Huntington of Northampton, the Chairman of the Committee on the Judiciary made, a masterly and eloquent speech, also in opposition to the removal. Some other speeches were made on each side. We may take occasion to print some of the speeches in full, and meanwhile refer the reader to our regular report.

PROPOSED REMOVAL OF JUDGE LORING.—The House of Representatives was chiefly occupied yesterday with the consideration of the address for the removal of Edward G. Loring from his office as Judge of Probate. The pending amendment, proposing to substitute a bill declaring an incompatibility between the office of U. S. Commissioner under the fugitive slave law and State offices was rejected by a vote of 153 to 184. This is regarded by some persons as a test of the sense of the House on the general question, but we have little faith in the significance of such indications. It was ordered that the direct question on the adoption of the address shall be taken this day at half-past eleven o'clock.

We have little hope that anything that we say at this late hour, in addition to the complete exposition of our views on the subject on former occasions, will have much avail with the members of the House. We trust that they will act with a due sense of their responsibility. The vote which is this day to be taken is such as has never before occurred in the history of the Commonwealth. There have been a few rare instances of the removal of judges by address on the ground of incompetency or other expressed and definite reasons. Today, for the first time, the legislative department of the government proposes to league itself with the executive in an attack on the judiciary,—while the Constitution declares that the three shall be entirely distinct—the pretext for justifying the attack being a notion which cannot assume the form of a distinct allegation because it is vague and general in its nature, but which amounts to this: that a certain Judge of Probate whose conduct as Judge of Probate is free from shadow of reproach, by his conduct is another official capacity, which conduct was likewise unexceptionable in that office,—has in some way offended what is called "the public sentiment of Massachusetts," and ought to be punished for that offence by a summary removal from his office.

The American party, strong as it thinks itself, cannot bear the intolerable burden in Massachusetts of an assault on the independence of the judiciary. It was such an assault that worked the destruction of the whole fabric so cleverly raised by the constitutional reformers of 1853. The people of Massachusetts love *liberty*, and are sometimes betrayed into indiscretions by the siren voices which sing that "anti-slavery" at the North is liberty—but our people love *justice*, too, and they will never be betrayed by any fallacy which seeks to tamper with the tribunals where justice is administered.

Evening Telegraph.

BOSTON, SATURDAY, APRIL 14.

Mr. Swift's Remarks on the Case of Judge Loring.

[We give below an abstract of the remarks of Mr. Swift of Boston, made in the House of Representatives, yesterday.]

Mr. SWIFT said he opened the discussion with no little hesitancy; for he fully appreciated the magnitude of the duty they were requested to perform. He was aware that no new matter can be revealed, no new suggestion made, no new idea advanced that can add information or interest to the question. The ground for the removal of Mr. Loring had been covered by the argument before

the Committee, by one of the most eloquent of living men, Mr. Phillips. The argument against Mr. Loring's removal was ably presented by Mr. Dana of this city. That argument has been generally read. The conservative tendencies of Mr. Dana were then commented upon.

Mr. SWIFT said he should not undertake to review the argument of Mr. Dana, but he would rely upon the simple justice of the case.

The reports presented, lay before us all the facts of the case as well as the variety of opinions which men hold with regard to this case. He was there to speak, simply in obedience to duty as one who makes and upholds the laws of the Commonwealth and to state reasons why he should vote for the removal of E. G. Loring from the office of Judge of Probate for Suffolk county.

He hoped the question would be amply and fully discussed. It is no slight or trifling thing to exercise this power of address. Twelve thousand petitioners come up to ask you to remove Judge Loring. They ask you to put into operation the Constitutional power which has not been exercised for many years, but which never has been and never could be more properly put into operation than at the present time.

No one doubts the ability and the undoubted right of removal. The question is not so much whether we should grant the prayer of the petitioners The power of address was then examined. The bill of rights was quoted as the basis of the constitutional government of Massachusetts. In that bill of rights our liberties are stated and our rights are guarded. From this flows protection to the weak, laws for the citizen, and justice for all. It comes down to us unmutilated, just as it came from the hands of our fathers. Whatever is found in this bill of rights is called our supreme law. Article fifth reads thus:

"All power residing originally in the people and being derived from them, the several magistrates and officers of government, vested with authority from the Legislature, Executive or Judiciary, are their substitutes and agents, and accountable to them."

The power of removal by address has been exercised three times; and they stand as proper and lawful authority. There is no stated or positive reason on account of which the power of address shall be exercised. The gentleman from Salem, (Mr. DEVEREUX) in his report, says no judge should be removed except for intellectual, moral, or physical incompetency. Others have other rules, but the most proper rule as to the case to which this power shall be applied, is the one found in the Constitution of Pennsylvania, which says that "any judge shall be removed for any reasonable cause on an address of both Houses." We are asked to invoke this power which has so long slumbered.

The eventful week out of which this trouble has sprung, the surprise and sorrow of that time were still fresh on the mind, when another man was seized in the streets of Boston as a fugitive. The news spread like wildfire. The hammer fell from the hand of the mechanic; the farmer forgot his coming harvests; the lawyer put off his client for a day, and crowds assembled about that Court House, known as a temple of justice and a baracoon of the slave hunter. The scenes connected with the rendition of Burns were most graphically and faithfully depicted. It was a week in which we all fell down, in which the proud old Commonwealth was made to bite the dust.

The scenes at the Court House at the close of the trial of Burns were then described as witnessed by himself. It was a sad countenance the poor fugitive wore on that morning; I looked, said Mr. SWIFT, at Anthony Burns during that procedure, and as he heard the words come from the mouth of that man who forged the fetters for his limbs, he looked like one who knew his own unhappy condition. As I looked upon him and thought of the few months he had known of liberty, of the struggles he had made to obtain it, and then how soon he was to be sent again to the land of oppression, my blood was stirred and boiled within. There was a man, accused of no crime, charged with no misdemeanor, thus to be reduced to slavery. All he asked of this State was that in that trial where all he valued in life was at stake, he might have the same privileges guaranteed to him that would be given to parties in a civil suit involving $20. All that he asked of that judge was that the generous rules which had come from English law, giving him the advantages of any doubt, should be his. The State could not give a trial by jury, and that judge would not give him the benefit of the doctrines and usages of common law. While Judge Loring was signing the certificate, Mr. SWIFT said he went up to Burns and looked him in the face. He felt the deep degradation of that moment. Not only did Anthony Burns lose his liberty, but you and I lost something; you lost the privilege of respecting the commonwealth which gave us birth. I went out of that door with a pledge on my heart that I would give the efforts of one life to banish chains and slavery from the soil of Massachusetts, and do whatever lay in my power, to wipe out the deep disgrace of that hour; and I am here to-day to do what I may to fulfil the latter part of that pledge.

The petitioners ask the removal of Judge Loring; first, because the act of sending Anthony Burns into slavery was wrong in and of itself. It was an act which no christian, no man who regards the honor of the State, no one who understands the fundamental principles on which our government was based, could or would perform. Second, because it was incompatible with his office, for the laws of the State had said that no one of its Judges should assist in the rendition of a fugitive slave. And, thirdly, they ask it because that in violation of the highest law of God which would prevent any man from fastening the fetters on a fellow-being, he made Anthony Burns a slave. No man has a right to make a man a slave, whether against last law or according to law. No man, once in possession of freedom—which he has by birth—can be deprived of that freedom except for crime. But such a crime as that of making a man a slave was committed in the capitol of Massachusetts, ten months ago. Anthony Burns had as good a title to freedom as you or I; and having enjoyed the freedom of the State of Massachusetts he was reduced to slavery on the soil of Massachusetts under the fugitive slave act.

Was Judge Loring obliged to do it? No not even as a commissioner. It was optional whether he should execute that act or not; and as he did execute it, it must be because he wanted to do it. Yea, he even postponed the business of the State to do it.

My second position is that the statutes of the State, expressly made and clearly stated, forbid any Judge of the Commonwealth to execute a fugitive slave law. That law was passed in 1843, and now remains on the statute book. And according to Mr. Dana, every moment it remains, it is re-affirmed.

The act of 1843 was then read and commented upon at considerable length, and its application to the law of 1850 showed, inasmuch as the act of 1850 was amendatory of the act of 1793, to which the law of 1843 did expressly refer.

We charge Judge Loring with neglect of duty as a judge of Probate. It was his duty to be attending to cases in the probate court on that Monday morning, but he put them all off to send a man back to bondage. Second, we charge that there was undue speed and celerity in surrendering Burns. Third, we find that he prejudged the case and announced to Mr. Phillips it was of no use to interfere. Fourth, he drew up a bill of sale; but the most deplorable feature of the case is that it was not treated with that caution and circumspection with which it would have been had the issue been a pecuniary one.

The reports of the two members who did not concur with the majority or the minority and of Mr. DEVEREAUX were then commented upon with ability. The whole speech occupied nearly two hours in the delivery, and was listened to with the most marked attention and interest. We have given but a brief sketch, as our limits would not allow more.

Mr. SWIFT closed substantially as follows:

But I must close. In looking over the whole field in this discussion, in examining the question in all its bearings, and in every light, the fact stands out prominent and undenied, that Judge Loring, in the year of our Lord 1854, in the State of Massachusetts, took from a man his liberty. By the recognized laws of the civilized world, that, next to depriving of life, is considered the greatest of crimes. In no remonstrance, in no argument, in no plea which has been made to us, can I find a sufficient excuse or justification for this atrocious act; and I say of Judge Loring as Edmund Burke said of Warren Hastings: "Let every thing that can be pleaded on the ground of surprise or error, upon those grounds be pleaded with success; we

give up the whole of those predicaments. We urge no crimes that were not crimes of forethought. We charge him with nothing that he did not commit upon deliberation; that he did not commit against advice, supplication and remonstrance; that he did not commit against the direct command of lawful authority." * * *

"The crimes of Warren Hastings are crimes not only in themselves, but aggravated by being crimes of contumacy. They were crimes not against forms, but against those eternal laws of justice which are our rule and our birthright. His offences are not in formal, technical language, but in reality, in substance, high crimes and high misdemeanors."

From no motives of personal spite or resentment, from no feelings of party rancor or animosity, am I before you, asking for the removal of this Judge. Never by any act of his, officially or otherwise, have I been injured. I fear no event of this kind in the future. But I am a citizen of Massachusetts, born on the soil which first felt the pressure of Pilgrim feet. Within its bosom I expect to repose when I go down to the long rest of the grave. And, sir, above all considerations of material success, or party aggrandizement, I place the honor and unsullied fame of Massachusetts. To my native State I have this duty to perform—to correct her errors, and to augment her virtues, as far as lies in my power. It was said by Solon, "that was the best city where those who are not injured are no less ready to prosecute and punish offenders than those who are."

Though neither you nor I have yet been reft of common laws or constitutional rights, though neither you nor I have yet been deprived of freedom, a fellow creature, a poor, hunted fugitive slave has suffered all this. It was done by a Massachusetts Judge; and we ask, in the name of that wronged and injured slave, that that Judge shall no longer act under the proud seal of this Commonwealth. I want Massachusetts to be as ready to resist an injury inflicted upon its humblest as well as its loftiest citizen. Again, I quote from Edmund Burke: "God forbid that it shall be bruited from Pekin to Paris, that the laws of England are for the rich and the powerful, but the poor, the miserable, the defenceless, they had no resource at all. God forbid that it should be said no nation is equal to England in substantial violence and in formal justice—that in this kingdom we feel ourselves competent to confer the most extravagant and inordinate powers on public ministers, but that we are deficient und poor, helpless, lame and impotent in the means of calling them to an account for the use of them."

Sad as that day was which saw a slave hurried through the streets of Boston, it will be a sadder day still which sees Massachusetts refuse to remove this Judge. Here, if anywhere in this world, we should look for high-minded and honorable actions. Across the water we see Europe waging a warfare for which Christianity has no prayer and for which Liberty has no benediction.

In our own nation, we find three millions of the children of unfortunate Africa in abject and hopeless bondage—we find a government without respect and without principle—a people too prone to pursue wealth, too apt to lust for power. To this gloomy picture do not let us add the fact that in the land of the Puritans, in the home of the Revolution, the sons of men who "for so paltry a sum as threepence in the eyes of a financier, so insignificant an article as tea in the eyes of a philosopher, shook the pillars of a commercial empire which circled the globe," possess not the courage or the virtue to drive from their judicial ranks a judge who has sent a man into captivity, a captive.

Remember, gentlemen, I entreat you, the character of the conflict in which we are now engaged. Liberty and slavery, right and wrong, justice and injustice, are now contending one against the other in the council halls of Massachusetts. On the one side the interests of property—the croakings of conservatism—the enemies of liberty, ask for the retention of this Judge. The people demand his removal. The people believe in justice. They cherish with no ordinary affection the honor of Massachusetts. They love liberty. Stirred by the associations which cluster around their history, and by the purer influences of the religion they venerate, out of respect to the memory of the past, and duty to the present, they have petitioned for this man's removal. While from a thousand altars at morning and at evening, prayers ascend for the abused and trampled slave, they cannot believe it consistent to retain as Judge one who ordains slavery for a single instant on our sacred soil. When Anthony Burns was returned, our pride was humbled, our religion and morality was utterly sacrificed. Edward Greele, Loring, an officer of the State, unmindful of the laws of God and the laws of nature, at the cost of State reputation and honor, returned that man. The people ask that he be removed from among our judicial officers They ask it because to keep him in office is to endorse his acts. They cannot rebuke that shameful act while the guilty Judge is allowed to wield amongst us the sword of Justice. If we do not remove him we sanction his conduct. They ask it because, while we punish with severity the criminal surrounded with temptation and corrupting influences, who breaks the law, we should not pass by the educated and refined Judge who violates the spirit of the statutes. They ask it because, by not removing him we shall acknowledge that in 1855 *we* do not consider that to make a slave of a human being is so great a sin or misdemeanor as our fathers in 1803 considered the overcharge of three dollars and thirty-three cents. They do not want posterity to draw that strange comparison, and therefore they ask for this removal. They ask it because they desire to respect and sustain the judiciary. They cannot do so while as part of our judicial system they see a man who has consigned a fellow being to slavery. And finally they ask it because it will, in the most imperative and dignified manner, express the hatred, the indignation, the condemnation which Massachusetts has for the institution of human slavery. The rendition of Anthony Burns was an abnegation of the Christian doctrine of love to man, and the Democratic doctrine of the rights of man. By thrusting from us the instrument by which that deed was consummated, we shall in part wipe out this stain; we shall at least prove that the Christian religion still inspires, and the love of liberty still animates our hearts.

Removal of Judge Loring.

We mentioned in our first edition the passage of the resolve for the removal of Judge Loring, by a vote of 207 yeas to 111 nays. This majority was just about as large as we expected. If the House had been full, it would have been somewhat over a hundred. The *Traveller* somewhat sharply represents this act on the part of the House, as "wholly a vindictive one—suggested and perseveringly carried through by party and personal feelings. Reason and justice and sound policy have been sacrificed to misguided impulse."

The *Traveller* is but very imperfectly acquainted with the public sentiment of this State on the subject of slavery and the rendition of slaves. We believe that the measure was dictated by a high regard for principle and justice. The fact that many members who desired Judge Loring's removal, voted for a proposition to bring about that esult by a method different from that proposed by the committee, shows that they were reluctant to use the power which belonged to them, and that only an imperative sense of duty compelled them to do so; or that the demand of the people was so stringent that it could not be disobeyed.

The matter is next in the hands of the Senate, which we are confident will be no less regardful of the demands of justice and of the wishes of the people of the State.

SPIRIT OF THE PRESS.

SATURDAY MORNING, April 14.

The Advertiser fears that the American Party will hurt itself in attempting to lift Judge Loring out of his seat. It explains the defeat of the reformed Constitution, and has heard "siren voices."

The American party, strong as it thinks itself, cannot bear the intolerable burden in Massachusetts of an assault on the independence of the

judiciary. It was such an assault that worked the destruction of the whole fabric so cleverly raised by the constitutional reformers of 1853. The people of Massachusetts love *liberty*, and are sometimes betrayed into indiscretions by the siren voices which sing that "anti-slavery" at the north is liberty—but our people love *justice*, too, and they will never be betrayed by any fallacy which seeks to tamper with the tribunals where justice is administered.

The Advertiser is poetical and philosophical, but somewhat unintelligible on the Burns Cases. It "never supposed," "could not pretend," "never doubted," and is not disappointed—but is evidently much relieved by something.

Thus have been dissipated the threatening clouds, which many anxious eyes have seen, in anticipation, surrounding these trials. Their history, now brought to a quiet conclusion, proves the admirable soundness of that philosophy—the philosophy of the Christian and the practice of the man-of-the-world—which teaches that "sufficient unto the day is the evil thereof," and does not trouble February with difficulties that may embarrass April—that reserves its strength till the time of battle, and allays the passions of the excited by giving them time to cool. Judge Curtis has sustained the majesty of the law, and nobody is aggrieved. Nothing appaling has happened. We never supposed that the general result would be otherwise. We could not pretend to foretell the precise form in which the end would come, but we never doubted that in whatever form it came, with an upright Judge and a law-abiding people, right and justice would prevail without any sacrifice of domestic tranquility. We have not been disappointed.

Evening Telegraph.

BOSTON, SATURDAY, APRIL 14.

At five minutes past eleven, the matter of the removal of E. G. Loring was taken up, and Mr. REED of Newburyport took the floor and spoke against the removal.

He gave the following reasons for his vote against the report of the committee and in favor of the amendment. Because so far as he could learn, the majority of the citizens of Suffolk county, in which he officiates as a judge of probate do not wish to have him removed; because he had yet to learn that the public sentiment of Massachusetts asks for it; because not the slightest charge has been made against him as a Judge of Probate; because the people virtually acquiesced in the execution of the fugitive slave law, and therefore were as much at fault as he was; because he did no more than he felt to be imperative duty in the case; because what he did in the Burns case he did, not as a Judge of Probate, but as a commissioner of the United States; because he is singled out as a victim, from many others equally as much in the wrong as he was; because infallibility is not to be found in any man; because the kindness which he showed during the trial that Burns might have counsel and procure advocates, in his willingness to prepare papers for the poor fugitive, illustrates the spirit which a judge of probate should cherish and exercise; because his removal will prove disastrous to the anti-slavery reform, not only in Massachusetts but throughout the country, and we shall have another example of the injury done by extreme measures to the cause of American freedom in our land; because we can prevent the removal of slaves from the soil of Massachusetts in a better way.

Mr. KIMBALL of Salem, spoke in favor of the amendment and was followed by Mr. SWIFT of Boston, who earnestly protested against the amendment.

The question was then taken by yeas and nays as follows on the amendment proposed by Mr. ELLIS.

YEAS—Alden, Ames, Babcock, Baldwin, Barker, Batchelder, Geo; Boughton, Boyden, Bradbury, Brayton, Brown, Abner; Brown, Geo. D.; Buck, Bunker, Capen, Carey, Carter, F. W.; Chandler, Chapman, Chase, A. K.; Chase, E. W.; Clifford, R.; Clifford, W.; Coburn, Cogswell, Cole, Conant, Cook, Cutler, C.; Denham, Devereux, Dewing, Dewing, Dodge, Dyer, M. Jr.; Eames, Ellis, C. L.; Ellis, Thos.; Emery, Field, Fisher, Geo.; Fisher, L.; Fisher, W. A.; Fogg, Folsom, Foster, F.; Frazar, Freeman, French, W. E.; Gale, Goff, Gould, E.; Grammer, Gray, Hale, D. H.; Hale, E.; Hamlen, Haskins, M.; Haynes, Hill, J. B.; Hinks, Holbrook, Howard, H.; Huntington, Jacobs, Jewett, Johnson, J. P.; Johnson, M. C.; Keith, E.; Kimball, E. W.; King, N.; Kinsman, Lamprell, Lawrence, Leighton, Lewis, D. I.; Lewis, J. S.; Lincoln, Lynde, Mann, Mansfield, Martin, J. W.; Mason, F. M.; Mayo, Mitchell, Moody, Morse, E. A.; Morse, H. G.; Mullin, Munroe, Murdock, J. F.; Nash, Nichols, Noyes A. B.; Nye, A. R.; Paige, Parsons, Peabody, Penniman, Perley, Phelps, W. A.; Peirce, Pratt, J. C.; Pratt, N. P.; Reed, D. M.; Rich, Robinson, E. R.; Robinson, J. D.; Rogers, H. D.; Root, Rowell, Russell, Sanderson, Sawyer, Shute, Simonds, Smith, B. F.; Smith, S.; Smith, W. McK.; Stetson, Taylor, O.; Taylor, W.; Terry, Thacher, Tilson, Tower, E.; Towne, Tubbs, Vial, Vose, Watkins, Webber, Wetherell, H. R.; Whipple, White, J. L.; White, S. W.; White, T. F.; White, W.; Wilder, Williams, J. M. S.; Wilkins, Winter, W. H.; Young.

NAYS—Abercrombie, Allen, L.; Allen, L. S.; Andrews, I. W.; Averill, Bacon, Belcher, Bigelow, Bills, Blaisdell, Bliss, Bodurtha, Bowers, Boynton, Brock, Brooks, Brown, G. A.; Brown, G. D.; Brown, H. C.; Bryant, Bullard, Burnham, Buttrick, Carlton, Carter, M. P.; Carter, S.; Chapin, Church, Churchill, Chas.; Churchill, C. O.; Clapp, G.; Clapp, G. P.; Collins, Cravens, Crawford, Davenport, Dickinson, Dyer, C.; Dyer, D.; Elkins, Fiske, Fitch, J. A.; Fitch, J.; Flagg, Flint, Foster, I.; Foster, W.; French, A. P.; Frye, Gardner, George, Gerry, Gifford. Gould, J. P.; Gould, R.; Graves, Griffin, Hall, G. B.; Hall, Hanks, Haradon, Harding, Harrington, Haskins, J. P.; Hathaway, I.; Hawley, Hill, C. H.; Hill, G.; Hills, House, Howard, C. F.; Howes, Hussey, Ingalls, Jenkins, Jenks, Jones, Josselyn, Keith, B. W.; Kimball, F. P.; Kingsbury, Knowles, Langdon, Lapham, Leonard, Lewis, T. H.; Lombard Lovell, A. E.; Lyman, Lyon, Makepeace, Marsh, S. F.; March, C.; Martin, N; Mason, L.; Metcalf, Milliken, Mirick, Monroe, Moore, J. M.; Moore, N.; Morrill, Morse, C. G.; Morse, L. Mower, Murdock, D. C.; Murdock, E. G.; Neal, Noyes, Parker, F. W.; Parker, J. W.; Perry, Pettingell, Phelps, H. Jr.; Poland, Pope, Porter, Potter, Presbrey, Prescott, Prince Reed, J. L.; Remick, Rice, Richardson, Ring, Rockwood, Rogers, A. L., Rogers, J.; Rood, Ross, Sanford Shedd, Slack, Slater, Smith, N.; Smith, N. P.; Snow Stevens, Stone, E., Stone, J W., Strickland, Swift Taft, P. W., Taft, V., Tarbell, Temple, M., Thaxter Thayer, W. M., Thayer, C. N., Thomas, Thwing, Tower, L. L., Townsend, Upham, A. T., Vineent, Vining Warner, O., Warriner, Waterman, Wm. G., Wetherbee, Wheelock, Whitcomb, Williams, G. F., Winter Wood, C. G., Wood, J. E.

ABSENT—Andrews, F. E.; Bardwell, Barnes, Bartlett, Batchelder, S.; Bull, Butterick, Carpenter, Clark J. E.; Clark, L.; Cooley, Cutler, T.; Davis, Eddy, Farwell, Felton, Grout, Hathaway, E.; Hawes, Hiss, Holton, Hood, Hulbert, Hurlbert, Huse, Johnson, J. R. King, W. S.; Laflin, Littlefield, Lovell, S.; Luther Mason, A.; Mason, J. O.; May, E. S.; May, W. B. Mears, Midram, Miller, Nye, H.; Palmer, Phelps, C. A.; Ramsdell, Ring, N.; Rogers, N. F.; Shaw, Shead, Sisson, Stebbins, Stewart, Stockbridge, Streeter, Sweetser, Temple, J. H.; Thayer, D.; Tyler, Wason, Waterman, W. L.; Waters, Webb, Webster, Wetherell, H. B.

Yeas 146—Nays 171 So the amendment was lost.

On the main question the question then recurred, and the following was the result:

YEAS—Messrs. Abercrombie, L. Allen, L. S. Allen, Andrews, Averill, Bacon, G. Batchelder, Bigelow, Bills, Blaisdell, Bliss, Bodurtha, Bowers, Boynton, Brock, Brooks, G. A. Brown, G.D.Brown, J. S. Brown, Bryant, Buck, Bull, Bullard, Burnham, Buttrick, Carey, Carleton, M. P. Carter, S. Chapin, E. W. Chase, Church, C. Churchill, C. O. Churchill, G. Clapp, G. P. Clapp, Clark, Coburn, Cogswell, Collins, Cook, Cravens, Crawford, Davenport, Dickinson, Dunham, C. Dyer, D. Dyer, Eddy, Ellis, Elkins, L. Fisher, Fiske, J. A. Fitch, J. Fitch, Flagg, Flint, F. Foster, I. Foster, W. Foster, Freeman, A. P. French, W. E. French, Frye, Gale, Gardner, George, Gerry, Gifford, Goff, J. P R. Gould, Grammer, Graves, Griffin, G. B. Hall, W. Hall, Hanks, Haradon, Harding, Harrington, J P. Haskins, Hathaway, Hawley, C. H. Hill, G. Hill, J. B. Hill, Hills, Hinks, House, C. T. Howard, Howes, Hussey, Ingalls, Jenkins, Jenks, M. C. Johnson, Jones, Josselyn, Keith, Kendall, E. P. Kimball, Kingsbury, Knowles, Langdon, Lapham, Leonard, T. H. Lewis, Lombard, A. E. Lovell, Lyman, Lynde, Lyon, Makepeace, S. F. Marsh, C. Marsh, J. O. Mason, R. L. Mason, Metcalf, Mirick, Mitchell, Monroe, Moody, J. M. Moore, N. Moore, Morrell, C. G. Morse, L Morse, Mower, D C Murdock, E G Murdock, Neal, A. B. Noyes, J Noyes, Page, F Parker, J W Parker, Parsons, Perley, Perry, Pettingell, H Phelps, Jr, Poland, Pope, Potter, J C Pratt, Presbrey, Primes, J L Reed, Remick, Rice, Rich, Richardson, Ring, Rockwood, A L Rogers, H D Rogers, J Rogers, N F Rogers, Rood, Ross, Santord, Shed, Simonds, Slack, Slater, N. Smith, N. P. Smith, Snow Stevens, E. Stone, J. W. Stone, Strickland, Swift, P. W. Taft, V. Taft, Tarbell, C.

H. Temple, Thaxter, D. Thayer, W. M. Thayer, C. G. Thayer, Thomas, Twing, Tilson, L. L. Tower, Townsend, A. T. Upham, S. O. Upham, Vincent, Vining, O. Warner, S. Warner, Warriner, W. G. Waterman, Webb, Wetherbee, H. B. Wetherell, H. R. Wetherell, Wheelock, Whitcomb, G. F. Williams, F B Winter, W F Winter, C. G. Wood, J. E. Wood.

NAYS—Messrs. Alden, Ames, Babcock, Baldwin, Barker, Belcher, Boughton, Boyden, Bradbdry, Brayton, Brown, Carpenter, Carter, Chandler, Chase, Clark, Clifford, Cole, Conant, Cutler, Cross, Denham, Devereux, Dewing, Dyer, Eames, Ellis, Emery, Field, G Fisher, W Fisher, Fogg, Folsom, Frazar, Gould, Gray, D H Hale, E Hale, Hamlen, Haskins, Haynes, J B Hill, Holbrook, Howard, Huntington, Jacobs, Jewett, J P Johnson, Keith, King, Kinsman, Lamprell, Lawrence, D I Lewis, J S Lewis, Lincoln, Mann, J Martin, N Martin, Mason, Mayo, E A Morse, H G Morse, Mullin, Munroe, F Mnrdock, Nash, Nichols, A R Nye, Oldham, Peabody, Penniman, W A Phelps, Pierce, N P Pratt, Prescott, D M Reed, E R Robinson, J D Robinson, Root, Rowell, Russell, Sanderson, Sawyer, Shute, B F Smith, S Smith, Wm. McK Smith, Stetson, O Taylor, W Taylor, Terry, Thacher, E Tower, Towne, Tubbs, Vial, Vose, Watkins, Webber, Whipple, J L White, S W White, T F White, W White, Wilder, Wilkins, Winter, Young.

ABSENT—F E Andrews, Bardwell, Barnes, Bartlett, Bunker, Butterick, Capen. Chapman, Cooley, Cutler, Davis, Dodge, Farwell, Felton, Griffin, Grout, Hall, I Hathaway, Hawes, Hinks, Hiss, Holton, Hood, Hurlbert, Huse, J P Johnson, E W Kimboll, W S King, Laflin, Leighton, Littlefield, S Lovell, Luther, Mansfield, A Mason, E S May W May, Mears, Mildram, Miller, Nye, Palmer, C A Phelps, Ramsdell, Ring, E Shaw, Stebbins, Sweeter, Stockbridge, J H Temple, Tyler, J Williams.

Yeas 207. Nays 111.

So the report was adopted. The House then adjourned.

DAILY ADVERTISER

PASSAGE OF THE ADDRESS IN THE HOUSE.—It will be observed by our legislative report in another column that the House of Representatives, on Saturday, passed the address for the removal of Judge Loring by a vote of 204 yeas to 111 nays, 62 members being absent. Majority for the address, 93.

It remains to be seen whether the Senate will concur with the House in this extreme measure.

The vote in the House indicates a slightly favorable symptom in the growth of just views, as compared with the vote by which Henry Wilson was elected to the U. S. Senate, ten weeks since. On that occasion, the fiery anti-slavery know-nothings in the House gave their candidate 234 votes out of 364, a majority of 104. On Saturday they were only able to throw 204 votes out of 315, a majority of 93—while the number of members too apathetic or too cowardly to express their opinion by a vote has increased from 13 to 62.

When it is recollected that Gen. Wilson did not receive in the Senate a single vote more than the number necessary to elect him, the significance of this abatement in the zeal for identifying the policy of the American party with anti-slavery fanaticism becomes apparent. Should there be a similar abatement of zeal, however slight, on the part of the Senate, the address would fail to pass.

CARD FROM WENDELL PHILLIPS. We find the following in the *Post*:

GENTLEMEN—I see by your report of yesterday's debate in the house of representatives, that Gen. Devereux said I applied to the mayor for protection during the Burns week.

Allow me to say, in your columns, what I have stated elsewhere often, that I never, either during that week or at any other time, asked any magistrate for protection, or authorized any one else to ask it for me. The only individuals who offered to go to the mayor I forbade to go.

Gen. Devereux thinks that in stating what Mr. Loring said to me at Cambridge, I violated confidence by repeating "*private conversation.*" Let me inform him that I have no *private* conversation with slave commissioners. My interview with Mr. Loring was an official one.

Respectfully,

WENDELL PHILLIPS.

April 11, 1855.

Evening Telegraph.

BOSTON, MONDAY, APRIL 16.

REMOVAL OF JUDGE LORING.

REMARKS OF

Mr. CHARLES W. SLACK of Boston,

In the Massachusetts House of Representatives,

April 12, 1855.

[Reported for the Evening Telegraph.]

MR. SPEAKER AND GENTLEMEN OF THE HOUSE:—I did not intend to claim at all the attention of the House in this debate, and should not have done so, had there not been statements made, and matter introduced therein, which seem to require reply, especially as some of them come within my own personal knowledge, and I presume the accuracy of facts alone is desired. I am sorry that in commencing my observations the gentleman from Salem [Mr. Devereux] and the gentleman from Northampton [Mr. Huntington] are not in their seats, as what I have to say in some measure affects their communication to the House.

And, first, I will allude to the remark of the gentleman from Salem, in effect that the two gentlemen who were most prominent, all things considered, in the events of the Burns rendition week, Messrs. Wendell Phillips and Theodore Parker, when they themselves had stirred up the popular indignation of the city by their speeches in Faneuil Hall, craved the protection of the police of the city to preserve their own dwellings and persons from the attacks of the mob; and, moreover, that the latter, who made great boast of possessing certain revolutionary relics in the shape of muskets, belonging to his grandfather or some other ancestor, used at the battle of Lexington, ingloriously fled from his house, and instead of using those weapons of defense bore them elsewhere for security.

So far as Mr. Parker is concerned in this statement, everybody who knows him knows that such conduct as is here attributed to him is in no respect characteristic of the man or in consistency with his usual course of action. If he had stirred up any public indignation, he would be the last man to seek, by avoidance of danger or a faltering timidity, to escape from the full measure of its responsibility upon himself. But the statement is not correct. The whole circumstances, so far as I am authorized to express them are these. Learning by public rumor, on the day following the meeting at Faneuil Hall, that there was some fear that his friend's, *Mr. Phillips'*, *house* was to be the object of attack, not his own, he communicated with a friend of his, a truckman, a powerful man, who had several men in his employ, mentioning what he had heard, and asking him if, when the day's work was concluded, he would have the kindness to pass through Essex street and by Mr. Phillips' house, and see if all was quiet, it being well-known that that gentleman had an invalid

wife, and quietude in the neighborhood might be essential to her health if not her life. He also communicated with a market-man in Boylston market, a friend from whom his wife was accustomed to purchase the meat for his family, to the same purport, saying that if he would pass through Essex street when he closed his business, about ten o'clock, in the evening, he would confer a great favor. The latter readily consented, but said he thought it would be well to visit the Police Station adjoining the market-house, and inform the Captain there of the rumor he had heard, so that possibly any outbreak, if any such should occur, might be suppressed. Mr. Parker said he had no objection to doing so, and in company with his friend visited the Station-house, was introduced to Capt. Eaton, and there learned by reference to the officer's book, that the Mayor of the city had previously communicated an order that the officers of that Station should see that no violence was offered to either the residences of Mr. Phillips, Mr. Parker, Mr. Francis Jackson, or Mr. Wm. Lloyd Garrison. Capt. Eaton suggested to Mr. Parker that he should think he would have enough to do to look after his own house, without being solicitous for that of Mr. Phillips; that was the first thought he bestowed upon the subject, and he said,—"True, why not mine, as well as my friend's, Mr. Phillips'." Returning to his own residence, Mr. Parker caused one or two articles, which, in case the house was attacked and destroyed, money could not restore, among them the revolutionary musket of his ancestor, to be placed in the custody of a relative of his wife, and then proceeded to the preparation of his next day's discourse. And that was the substance of his interference for the aid of the Police.

Relative to Mr. Phillips' solicitation for the aid of the Police, I feel authorized to say he never sent to any magistrate whatever for protection, and never asked any one to do it for him. On the contrary, the only individual who offered to go to the Mayor, he forbade to go. And this in view of all the circumstances of that trying hour, with a full knowledge that there was directed towards him all the personal enmity of the slave-catchers and their willing crew; and that within his home was the partner of his bosom, an invalid for years, whose every wish for peace and quietude he could not but feelingly consult.

The order of precaution taken by the Mayor was doubtless upon learning the same rumor that came to the ears of Mr. Parker, and was no doubt dictated by a desire, as far as in him lay, to preserve the reputation and quiet of the city over which he presided.

But the gentleman from Salem, in noticing the interview of Mr. Phillips with Mr. Loring, at the Law School, in Cambridge, says "Mr. Phillips had no right to detail *private conversation* with Mr Loring." Sir, I take it upon myself to say, that a gentleman of Mr. Phillips' standing and views has *no* private conversation with Slave Commissioners. What he says, and what he hears, on such occasions is *public* property, to be imparted to all men, and the freedom with which he communicated the substance of that conversation to Mr. Charles Grafton, in the hall of the Law School, immediately after its occurrence, as testified to in a letter over the signature of Mr. Grafton to the Committee on this subject, testifies that it was no private matter in his opinion, but something in which every citizen in the State had a deep and carnest interest.

But the gentleman from Salem could not get through with his argument without dragging in my friend, the new Senator in Congress, Mr. Henry Wilson, to make him bear some portion of his obloquy. In discussing the point that even *he* recognized the constitutional obligations imposed upon Massachusetts to carry out the Fugitive Slave bill, he quoted the reply of Senator Wilson, in part, to a question propounded on the floor of the Senate by Mr. Benjamin of Louisiana, to the effect, if I recollect rightly, that "if the Fugitive Slave bill should be repealed, the Commonwealth of Massachusetts *would fullfil* her constitutional obligations." Perhaps improperly, I immediately asked the gentleman if he would read the continuation of the answer, the next paragraph. The gentleman replied he had it not. Well, if it is of any consequence in this connection what Mr. Wilson did say, I am happy in having before me a *full* report of that speech, taken from the official organ of Congress, the *Globe* of Washington city, and the language is as follows. Mr. Benjamin asks:

"I will ask that Senator if, frankly and conscientiously, he believes that, in the event of the repeal of the fugitive slave law, the State and people of Massachusetts would adopt effective measures by which fugitive slaves from the South would be captured and returned to their owners?"

Mr. Wilson at once as frankly replies:

"I believe that if the fugitive slave act should be repealed, the Commonwealth of Massachusetts will fulfil her constitutional obligations, *but she will do it in her own way, so as to protect fully the rights of every man within her jurisdiction.*"

Yes, sir, that is the reply—Massachusetts will fulfil her constitutional obligations, but she WILL DO IT IN HER OWN WAY, so as to protect the rights of every man that lives within her borders. That is what I believe she ought to do, and will do in time. And this "own way" does not imply solely the passage of a Personal Liberty bill, as my friend from Northampton [Mr. Huntington] suggested yesterday afternoon, but by every possible means that can be brought to bear—by an aroused public sentiment declaring that when a slave touches Massachusetts soil he shall be free, as well as by the utterance of the doctrine, which cannot be too often repeated, that there is no power given to Congress in the Constitution to pass extradition laws, but is a matter guaranteed and reserved to the several States. This is the doctrine of Mr. Rantoul, so well enunciated; of Mr. Sumner, and of every member of the Free Soil party, so far as I know, who ever gave any attention to the subject.

Passing from the remarks of the gentleman from Salem, I trust I may be permitted to casually notice some of the points presented by the *venerable*—I was about saying, in view of the disparity of years between himself and myself—gentleman from Northampton, if I am warranted in making conspicuous so wide a contrast between that eminent member and myself. We all listened with pleasure and high gratification to his able, earnest, and yet oftentimes humorous discussion of the case; and yet there are a few thoughts which he threw out in which, trying to discharge *my* duty as a member in this responsible issue, I cannot concur. They are these:

First, we were told, in the commencement of his address, that we are here acting as "judges." He will pardon me, I know, if I say I do not so view our action in this case. It is not so, I respectfully submit. There is here no question of guilty or not guilty; it is simply the record of our opinion—not judgment duly formed and delivered after the culprit has pleaded at the bar, and the evidence has been received and weighed, and a jury of peers decided with deliberation—that the man whose case we have been considering is not fit for the position which he occupies as a Massachusetts Judge, wearing the spotless ermine which adorns the shoulders of the judiciary; and it is for another branch of the government to say what that opinion is worth, and pass upon it. The position of "judges" belongs to the Senate, I understand, in a case of impeachment, after presentment duly made by the House,—which this is not. Hence, we are not "judges" in a proper sense.

Next, "we have this man on trial," says the gentleman. I think not. We may remove a man for incapacity or insanity. That is no question of guilty or not guilty. The consideration alone for us is—Is the man *fit* for the office?—to answer which involves and implies no *guilt* of any kind.

Again, the gentleman is reported in an evening paper, (and as I understood him,) as saying, "This question would not have come up had it not been for the Nebraska measure; those who urge it most are those who are recent converts to the anti-slavery movement, and new converts are always the most zealous." This may be the gentleman's opinion, but I think he is very much mistaken. Why, sir, take the old Free Soil party as an illustration in the first place—a party ranging from twenty-seven to thirty thousand members. Does he think that that large number of men, to say nothing of numerous others from other parties, are not generally desirous of this removal? If he does, I think he mistakes the sentiment of those men. Why, sir, if their number be thirty thousand, I venture the assertion that twenty-nine thousand five hundred are at this moment desirous of this removal. And, surely, *they* are not new converts, as a long and vigorous contest for their idea and principles through the last six or seven years testifies.

Mr. HUNTINGTON of Northampton.—If the gentleman will allow me I will state that I did not say those who were most zealous were new converts. I said those gentlemen with whom I had

conversed, who were most zealous, were new converts. I did not pretend to say that the Free Soil party were not originally in favor of this measure. The gentleman will recollect that Theodore Parker was at an excited meeting, at the bottom of all this movement.

Mr. SLACK (continuing.)—Certainly, I am glad the gentleman has thus corrected the report, and I trust the press will give the correction as it gave the erroneous remark. But I will say, gentlemen with whom I have conversed entertained the same view as myself, gathered doubtless from the same report in the evening paper, and thought the remark a very singular one to be made by a gentleman, like myself, once associated in the Free Soil party.

Well, sir, I will finish what I was about saying, as it is pertinent to the interest felt in this question. Take the press of the State, which should be the embodiment of the popular sentiment, as another illustration. How does that stand? Why, every one of the old anti-slavery or Free Soil papers is openly in favor of it, and many that never professed any sympathy with anti-slavery men or measures. Why, sir, I need only allude to that influential old Whig press published in the valley in which the gentleman resides, the *Springfield Republican*.

Mr. HUNTINGTON—That is one of the recent converts. (Laughter.)

Mr. SLACK.—Yes, sir, and I accept it as such, and am happy in knowing that a paper of so much ability, character and influence in Westerm Massachusetts, in its repeated editorials, is doing so much to promote this object and bring about a healthy tone of political action in the State.

But, says the gentleman, we are to pass upon "a sworn officer," or an idea to that effect. We are giving an opinion, I believe, upon his acts as a *Commissioner*, not as a Judge of Probate. We are making a distinction in his positions. We want to condemn his doings as a Slave-bill Commissioner, acting under United States laws, while holding the Massachusetts office of a Judge of Probate, in the conduct of the duties of which we have no charge to make. We are passing therefore upon a Commissioner by reason of his relation to another office. No Commissioner is sworn; hence, we do *not*, properly, pass upon the acts committed by any "sworn officer" of the State. But let me here say it, to the additional infamy of the infernal Fugitive Slave bill, that it recognises officers to execute it who in no manner are sworn to the honest and conscientious discharge of the soul-revolting duties it imposes.

But, "we have not the testimony" adduced in this matter, says the gentleman. True, we have not, and need not have, as it must always be when the House is acting "by address" for removal, as it is now doing. This very fact shows what I have before said that this is not a *trial*, and was not intended to be one.

The gentleman further said the Probate Court is not a court of record, and hence the law of 1843 does not apply to such officers as Mr. Loring, because their offices are not courts of record. This seems to me merely a technical point. But, by a recent decision of the Supreme Judicial Court of this State, in a case of naturalization, it was laid down that that is a "court of record" which employs a clerk. Taking the decisioo to be corrcct, as we must, then is the Probate Court a court of record, for it has its Register, who is its principal clerk, not to mention sometimes one or two additional clerks.

Another point of thc gentleman was, that the State law of 1843 applies to the act of 1793 alone, and not to the act of 1850, and hence that Judge Loring was not affected by the provisions of the unrepealed State law for his acts as a Commissioner. My friend and colleague who so eloquently opened this debate, [Mr. Swift of Boston,] well answered this objection, and I need not dwell upon it. I will only say, in passing, that the act of 1850 is entitled, if my memory serves me, "an act supplementary to and amendatory of" the act of 1793, and being such, of course any State law applying to the first, must in its spirit and intent apply to the second.

But further objection was made by the gentleman that the "bill of sale" of Anthony Burns, about which so much has been said, having been procured *by the friends of the fugitive* to aid in his release, is now, after it had failed to accomplish its purposes, put in to show the incompetency of the Judge to conduct a fair examination. Here, sir, I wish to say distinctly, this is a mistake. That bill of sale emanated from a very different quarter. It came from the junior slavecatcher's counsel, the younger Mr. Parker connected with the affair, suggested to him, I have no doubt, by members of a family somewhat noted for its connection with this and similar rendition trials. Yes, sir, neither Mr. Burns, Mr. Grimes, nor any of the active friends of the fugitive, asked for this bill of sale, or proposed this transfer of a human chattel, till it was suggested, and they solicited to aid the subscription, by the slave-catcher's counsel, who had begun to feel, as the gentleman from Charlestown [Mr. Griffin] yesterday afternoon so well expressed it, the "leprosy of contempt" crawling over him for his participancy in the affair—suggested, sir, as I think I have authority for saying by members of a family which, however shameless before, seemed then to begin to feel that an aroused public indignation was concentrating upon their heads—an indignation which, since that hour, has gone on increasing in momentum, like the incoming waves of the sea, till to-day, but just now, another member of the family, sitting as a Judge, in the Burns riot cases, has been compelled, it would seem—and here I think I am proclaiming good news—to *quash* one of the indictments, and the District Attorney has entered a *nolle prosequi* upon all the rest! (Sensation.)

Allusion was made by the gentleman, also, to a certain speech by Mr. Wendell Phillips, at the Melodeon, in this city, immediately after his return from the visit to Mr. Loring at the Law School, and before the final termination of the trial,—in which he uses suudry complimentary words towards Mr. Loring, who had commenced the case, such as "the Commissioner, being a man of fair character hitherto," "a Commissioner perhaps the very best you could select in the United States,"—seemingly to prove that Mr. Loring had conducted the trial in a perfectly honorable manner, and that Mr. Phillips had no right to complain, when he had borne such testimony to the character of the Commissioner. Now, sir, I respectfully submit whether this speech, with its complimentary allusions, made before the result of the trial was known, before even the evidence for the fugitive was presented, and the doubts raised by which he should have been decreed his freedom, can in any fair sense be here presented to show that Mr. Phillips or anybody else ought to be satisfied with the final result. Why, sir, Mr. Phillips presented that speech before the committee to show that he had no undue bias against Mr. Loring, when the trial commenced, and had even proceeded one day. It is not pertinent at all as expressing his opinion, four or five days after, of the result of the trial, or the manner in which it was conducted.

In allusion to some of the incidents of the trial, the gentleman from Northampton says the soldiers about the court-house were ordered there by a United States District Judge, Mr. Sprague, and therefore Mr. Loring could not be held responsible for their presence. True, sir; we know it; and in this the gentleman tells us nothing of which we were not before possessed. We will admit, at once, that Judge Loring had nothing to do with the men or the measures outside of his court-room. But how was it, sir, within that court-room, where he did, as all admit, have control, where his will was imperative, and he alone was sovereign? It was my professional duty, sir, as a reporter, to be in attendance in that court-room, almost from the incipient stage of that sad case, to its dreadful close, to hear that most appalling decision, and then, sir, rushing out, to mark the track of that infamous *cortege* as it passed down the street to the end of the wharf, with its victim in its hollow square, and on that bright June day, over the placid waters of Boston harbor and Massachusetts bay, in a national vessel, see him borne off to, as then appeared, an endless servitude. I know it all, sir,—and I ask who it was, in that court-room, in the public building owned by one of the counties of the State, suffered a so-called "hall of justice" to be prostituted by the presence of armed ruffians, the vilest of the vile, sanctioned participation in that court, in Massachusetts, of counsel with deadly weapons upon their persons, even after attention was called to the fact, and allowed the prisoner at the bar pleading for more than life to remain a portion of the time with irons on his arms?

Yes, sir, that motley crew, familiarly known as the "Marshal's guard," there they were, with revolvers protruding from their side-pockets, to the open gaze of all. Who sanctioned this outrage, with the others? I say it was a Massachusetts judge, sharing in the honors we bestow upon our

most eminent citizens—Edward Greeley Loring. Outside of that court room he may have had no control—though he did order the hireling soldiery, wearing the uniform of the nation's service, to allow the witnesses of the fugitive to pass without molestation—possibly with mortified face he may have noticed those adjuncts of a Slave Commissioner's Court; but within those walls he could execute his order, and all must obey. Knowing this, he *tolerated* all this outrage upon the name of justice, in old Massachusetts!

Sir, I will not trust myself to say all I feel in regard to those men thus on duty there. I haven't words strong enough to express the utter abhorrence and contempt with which I looked upon them—the vilest, darkest, most despicable blackguards that the purlieus of the city can bring forth. Even now, every time I think of that miserable gang, "my blood boils"—to quote the language of the gentleman from Northampton, on a recent occasion. Let me use the language of others, and read first a portion of the contents of a handbill publicly posted about the city during that eventful week:

"There is *Lewis Clark*, who fought Jack Smith, who was arrested charged with murdering his own mistress by throwing her overboard, [in the canal which ran up where now stands the depot of the Boston and Maine Railroad,] and who now keeps a brothel in this city; *Jack Stewart and his brother*, two 'three card monte' robbers; *Charles Scott*, known to the police as 'thiefy Scott,' who is 'kept' by a prostitute, and escaped from Leverett street jail about two years since, where he was incarcerated for robbery; *Billy Mead and his brothers*, who are engaged in keeping gambling saloons and houses of prostitution; and some *fifty other* similar characters, all of whom are known as villains in the criminal records of Massachusetts!"

But these ruffians are better described in the scathing words of another, which let me read to you for a faithful portraiture:

"I never saw such a motley crew as this kidnappers' gang collected together, save in the darkest places of London and Paris, whither I went to see how low humanity might go, and yet bear the semblance of man. He raked the kennels of Boston. He dispossessed the stews. He gathered the spoils of brothels; prodigals not penitent, who upon harlots had wasted their substance in riotous living; pimps, gamblers, the *succubus* of slavery; men that the gorged jails had cast out into the streets; men scarred with infamy; fighters, drunkards, public brawlers, convicts that had served out their time, waiting for a second conviction; men whom the subtlety of counsel, or the charity of the gallows, had left unhanged. 'No eye hath seen such scarecrows.' The youngest of the Police judges [whose pleasant face I just saw beaming upon us from the rear] found ten of his constituents there. Jailor Andrews, it is said, recognized forty of his customers among them. The publican who fed these locusts of Southern tyranny said that out of the sixty-five, there was but one respectable man, and he kept aloof from all the rest. I have seen courts of justice in England, Holland, Belgium, Germany, France, Italy and Switzerland, and I have seen just such men. But they were always in the dock, not the servants of the court."

Of this expressive, faithful, scathing description, I endorse every word, so far as the public reputation of these myrmidons of vice and wrong was known to me. And these were the sort of men over which our Massachusetts Judge of Probate had control, and he did not purify the court room of their hateful presence.

But the gentleman makes another point that there was no anti-slavery feeling expressed by the people, through the forms of legislation, from the year 1850, when the Fugitive Slave bill passed, down to the year 1854, when Mr. Loring acted in the Burns case, that indicated any dissatisfaction with such conduct in similar cases. The Legislature, he says, refused to pass any measure that shadowed disapproval of Massachusetts men acting as Commissioners. So far as the forms of legislation are concerned, the statement is correct, perhaps; but if he means to imply that the *people* had not convictions and earnest desires on that matter, I think the gentleman labors under a very great mistake. It is not always that the people can readily act when hampered around by the iron clasps of party discipline; and these they were, I think, that prevented legislation during those years. But, sir, I think neither the gentleman, nor any one else, will deny that public sentiment was making a most rapid stride all this time. The election of CHARLES SUMNER, even though,—as a coalition measure offset, as the gentleman says it was, by the elevation of George S. Boutwell to the gubernatorial chair,—it were viewed in that poor light, was a most significant indication of the progress of sentiment. Think of it! Charles Sumner, an uncompromising, life-long almost, anti-slavery man, sent immediately after the passage of the Fugitive Slave bill, to fill the seat but just previously vacated by Daniel Webster, who breathed into that bill the breath of life! A most remarkable advance in public opinion!

What have become of the different State administrations since that time? Mr. Boutwell's was then in power. No other anti-slavery action, of any consequence, was taken by it, and it passed away. Mr. Clifford's followed—the Executive one of the most popular and courtly of the many popular and courtly men of a strong and victorious party. One year alone sufficed for that, and he who had come into position so honored and esteemed, went from it most unpopular and mocked, lacking that progressive element which the people demanded, and with dissatisfaction openly expressed throughout the but recently self-congratulatory party. True, he declined a renomination; but these and other causes, lacking the confidence of his party friends, led to that decision. Then came Mr. Emory Washburn's—it was the last. We all know how that ended. Whirling into power upon the defeat of the new Constitution, one short twelvemonth only sufficed to hurl him by an overwhelming majority from his proud station. He it was who, more than the others, failed to recognize the demands of the people as expressed in the anti-slavery enterprise—whose timid, faltering course during the week of the Burns rendition did more to bring about his defeat than all other causes combined. I always desire to speak respectfully and well of any man who has attained the honored position which these men attained, but I must say in truth, that Mr. Emory Washburn's hesitating, halting, almost cowardly conduct in failing to assert the sovereignty of Massachusetts, through fear of a collision with the national government, during that terrible week, brought upon him, in my judgment, the overwhelming indignation which found expression in November last, when, by an unprecedented triumph, new men and new measures were inaugurated in the policy and places of the State. Yes, sir, there has been a steady advance of popular sentiment upon this subject; and if the present administration does not heed it, it will be swept away as surely as those which have preceded it,—as it will *deserve* to be swept away. But, sir, I have no fears that it will not heed it. I believe that in the act we are about to do, as I think we shall, it will receive new confidence from the people, and be retained in the position it has gained.

The gentleman took occasion to allude to the head of the present government, as one who in the House of Representatives, in 1852, made the motion to lay upon the table certain "milk and water" resolutions, as he called them, of an anti-slavery character, and intimated that because he did that, as it was alleged, it would be somewhat inconsistent now to ask him to remove Mr. Loring. Mr. Speaker, I think I may say I believe in sudden conversions, after the experience of the last year or two—(laughter)—of death-bed conversions, even—especially when a raging epidemic is about, whether political or otherwise, and he who walks abroad at the noon-day of partizan success is liable, if not brought unto death, to waste away in lingering and excrutiating disease. (Renewed laughter.) I am willing to accept even Mr. Gardner as a remarkable subject of sudden conversion, if it be so; but before saying why, let me intimate to the gentleman that it was very singular he should have had such influence in a House with forty coalition majority as to lay upon the table—if he did make that motion, of which I believe there is some doubt—the aforesaid "milk and and water" resolutions. It is admitting that the gentleman, the present Executive, had some power thus to lead in a body which was so strongly opposed to him and his party.

That gentleman, however, was before the people, last fall, as a candidade for office. He had occasion to define his position. He did it in a manner which won for him at once the respect and confidence of the people, prompting them to say to themselves spontaneously—That is the man! He expressed himself in clear and unmistakable language, bright as the dazzling shafts which anon light up the darkness of the horizon. I like to read, occasionally, that terse and vigorous letter—a paragraph or two, in particular, which defined his position in regard to one issue involved in the canvass. May I be pardoned for again reading it, and this time aloud:

"The assertion that I was one of the body guard of Sims, or any other fugitive, on his return to slavery, I pronounce false as a whole and false in all its parts—false in its aggregate and false in every detail.

It has no shadow of basis of any sort, kind or degree, and its originator, whoever he was, coined the libel out of pure, unadulterated falsehood. Were the same charge made against yourself, it could not be more groundless than it is against me. The power of language does not permit me to express the utter loathing I have for the conduct attributed to me. Far sooner would I be the poor quivering wretch on the road again to the agony of bondage, than a volunteer guard to aid in his return. He who invented the charge grossly slandered me; they who repeat or believe it, do not know me."

Sir, when a public man in Massachusetts uses such language as that, over a signature clear and well-defined as the author's of this letter, I feel proud to recognise him as belonging to the party to which I belong, and when he needs it, to say a few words, feeble though they be, in his defence.

Yes, sir, the anti-slavery sentiment of the State had been increasing steadily during those years, and I am willing to acknowledge that letter of Gov. Gardner's as a most significant indication of it. It may be true that Boston was less affected by that sentiment than other places—that a majority of the citizens were in favor of the rendition of fugitives. But how about other places? Were the people of Plymouth, where I am told there are some eighteen or twenty fugitives, in favor of it? Was New Bedford, with its two hundred or more? Was Worcester, the heart of the Commonwealth?—where, but recently, an emissary of the slave-catching crew, on the comparatively harmless and peaceful mission of summoning witnesses in the Burns riot cases, gave occasion, by his presence only, for the almost making of that beautiful city the Christiana of Massachusetts soil, and was protected in his life seemingly by the men whose feelings he had outraged, of whom I have since heard it said that it was "a great oversight" that they allowed him to depart alive—such was the intensity of their indignation against the poltroon. No advance in all this, sir? Aye! most significant progress.

But, in further justification of the opinion that the public was not prepared for action on this matter of the rendition of fugitives, the gentleman frem Northampton directs attention to the position of Mr. Sumner in Congress, the first session of his service, and intimated that he had no constituency to back and sustain him, and hence he did not speak; that letters and appeals were sent to him urging him to say something; but so conscious was he that public sentiment at home was not with him, that he hesitated long before he gave utterance to his sentiments. Is all this so? I must say, with all respect, that I differ with the gentleman; I do not so understand Mr. Sumner's course during that first session. The gentleman surely has been misinformed in regard to this matter. "No constituency"! Why, sir, he had the warm sympathies of the honest masses of the whole State—no man ever more so. True he did not at once fall to making speeches; he was not ready in debate; but he pursued a course of which time shew its prudence and its wisdom. He marked well his men; he measured their strength; he noted keenly their powers of argument; like the course of the gentleman himself in *this* House, he did not often participate in the contests of the session, but calmly watching the proceedings and words of those about him, saying little himself, he knew the exact moment when to speak, and the better effect it had upon the assembly. But when he *did* speak, and his glowing words were spread over this State and throughout the nation, how the hearts of all the liberty-loving people yearned towards him, and he was made conscious that his constituency embraced the great bulk of the honest masses of the North. Hesitated to speak! No, sir! It was rather the keen, skilful observation of the military engineer, who calmly, discreetly going about the citadel of his enemy, noted its every bastion, marked well its battlements, detected its weak defences; so that, when his science and skill had done their perfect work, and the heavy artillery of attack was poured upon the doomed city, not a shot missed its aim, not a blow was misspent, and the well-directed energy of successful assault beat down the walls of the stronghold, wrested the prize from its possessors, and upon the highest point of the captured citadel floated out upon the air the proud banner of entire and glorious victory!

Turning from Mr. Sumner, the gentleman from Northampton had some comments to offer respecting the junior Senator in Congress from this State, Mr. Henry Wilson, a personal and political friend of mine, I am happy to say. *His* course was not altogether to the liking of the gentleman. Well, this Senator has been but recently chosen, and by this House. I did all I could to secure his election, I am free to acknowledge, (though I fear my efforts in that respect were feeble,) and if it becomes this House to defend its choice, I know of no one more willing to try to do it in their name than myself.

The point first urged against Senator Wilson by the gentleman was the writing of a letter to one Vespasian Ellis, the editor of the Washington *Organ*, assuming to be the central oracle of the new American party. The only objection *I* have to his action, is that he should have taken any notice of the somewhat assuming and impertinent letter of the editor, and did not return it unnoticed, or at least, nothing more than an acknowledgment of its receipt. But Mr. Wilson saw fit to do otherwise, possibly thinking it a good opportunity to put himself right before the country; he answered his inquiries, openly and frankly, as he is accustomed to act. He did not, as the gentleman alleges, when asked if the American party in Massachusetts was organized on anti-slavery, or for anti-slavery purposes, say it was not, and wholly "ignore the anti-slavery issue" in the politics of this State, but he stated what was the fact simply in regard to that organization in this State, that it was not formed for distinctive anti-slavery work, and then went on to express what were his convictions of the sentiments of her people, what they believed, and what he should claim for them on the floor of Congress. I chance to have this letter and reply with me, and the gentleman and the House shall hear if Mr. Wilson "ignored the anti-slavery cause," or even proved recreant to any one of the anti-slavery sentiments he ever uttered. This was the question Mr. Ellis asked:

"Does the American organization in Massachusetts embrace the question of slavery amongst those for the regulation of which that organization was formed?"

This was the reply of Senator Wilson, and I give it in full:

"The American organization in Massachusetts does not embrace the question of slavery among those for the regulation of which it was formed.

The people of Massachusetts have fixed opinions in which most of the members of that organization fully concur, against the support or allowance of slavery by national legislation.

They entertain the most profound conviction that the harmony and repose of the country, and the highest interests of the master and the slave demand that the national government should be relieved from all connection with responsibility for slavery, and that this disturbing question should be left to the people of the states where it exists.

While they do not seek to impose these convictions and opinions upon their fellow citizens of other States, or to proscribe them for not fully concurring in those convictions and opinions, they will submit to no dictation or proscription from any body of men, or section of the country.

I, as a Senator from Massachusetts, shall claim for the opinions of her people, all the freedom of utterance, and all the influence upon the action of Congress, and the administration of the government, which a Senator from Virginia can claim for the opinions of the people of the ancient dominion."

I submit that there is not here the slightest ignoring of his anti-slavery position, but rather a bold and manly avowal of it.

But his action on the Oregon bill has been alluded to as questionable. Well, sir, I have read all that the official organ, the *Globe*, has given of the debates on that question, and I cannot see that there is reasonable ground of complaint for his action relative thereto. It was Sunday; within one hour and thirty minutes of twelve o'clock, of March 4th—March 3d according to the legislative record, but March 4th of the calendar—when Congress must be brought to a close. There was an important bill to pass, without which the machinery of government must stop; the Oregon bill had been amended; it would give rise to debate; it must then pass through the House for concurrence in the amendments, with the other important and exciting business to be transacted; and all this, in both branches, in the short space of ninety minutes by the clock, before Congress must cease its labors. There was no earthly possibility of getting the bill through; Mr. Douglas so admitted; and Mr Wilson reasoned, why, then, waste the time in the futile attempt? He expressed himself as he thought; and the attempt was not made. And that is the whole story. I desire to add, as I have authority other than that of Mr. Wilson himself for doing, that the course of the Senator met the entire approval of Mr. Sumner from this State, Mr. Chase of Ohio, and other friends, whom I suppose the gentleman will not question have strong anti-slavery sentiments. And I will add further, that Mr. Wilson and Mr. Sumner are a unit in their feelings and action on the floor of the Senate.

Doubt Mr. Wilson's anti-slavery convictions or his anti-slavery integrity! Why, sir, the thing is preposterous. The history of the past six or eight years, in which many of us have politically toiled almost hopelessly, should teach better than that. The Senator's whole career, from his youth upwards, gives no sanction to such an idea. I know full well this lack of confidence has been expressed before towards this gentleman. But I never could learn why, with good cause. I could only surmise that it was because of his humble origin, because he was not liberally educated at a neighboring university, because he seemed more than others to possess the sympathies of the pulsating, living masses of the community. I know that so-called "Free-Soilers from the start," who should ever have been "*on* the start" for success of great principles rather than to find cause for complaint against devoted, earnest men, have sought to thwart and oppose him; but I know, also, that they have failed, and that he to-day stands firmer in the affections of the people of the State than ever before,—as he *will* stand. Only a week ago, sir, in Tremont Temple, before a large audience that thronged that spacious hall, warning the anti-slavery men of the country of the dangers, seductions and blandishments of power, he boldly said:

"If my voice could be heard by the Anti-Slavery men of all parties, in the nation, I would say to them: 'Resolve it—write it over your door-posts—engrave it on the lids of your Bibles—proclaim it at the rising of the sun, at the going down of the same, in the broad light of noon, and beneath the milder effulgence of lunar light,—that the day *any* party—be it Whig, Democratic or American—raises a finger to arrest the Anti-Slavery movement, to repress Anti-Slavery sentiment, or proscribe Anti-Slavery men, IT SHALL SURELY BEGIN TO DIE!'"

And so I say, sir!—IT DESERVES TO DIE! But the departure of Mr. Wilson, and other Free-Soilers into the American movement, seems to be an unpardonable offence. Well, sir, *I* went with others into that movement. I joined it, and—I left it; though I suppose I am a sort of hybrid member,—belonging still to the "American party," as such—my name not now enrolled on the books of the "inner circle,"—while I possess, I fear, many of my old Free Soil predilections. I can say a good word for that organization, however. I think its origin was a necessity of our political condition—that the movement was an exigency which the people recognised and which they answered. One reason why it gathered such remarkable strength and success in this State I will tell the gentleman. He doubtless remembers that at the Presidential election of 1852, almost the entire foreign vote of the country was cast for one Franklin Pierce for President. He may remember also, that in the summer ensuing, there sat in this hall, for three long months, some of the best men of the State—among which number, for his eminent services and abilities, I am glad to class himself—for the purpose of forming a new Constitution of the State; that, their disinterested and long-protracted work ended, it was submitted to the people for their decision upon it at the following November election; that on that day, the same foreign vote, with scarcely an exception, that a twelvemonth before had voted with the Democrats, deserted their allies and went with the Whig party in opposition to that new Constitution, and by *their* votes insured the defeat of that instrument which the people demanded, the work in part of the gentleman's own hands—for what? Simply because, in that instrument, was one single little clause that thereafter no sectarian school in the Commonwealth should receive the public bounty. And the gentleman may know, that on the Sunday afternoon previous to that election, up in his own beautiful town on the Connecticut, from the pulpit of the Catholic church, was read a letter by the priest, said, I believe, to have been received from the Bishop of the Diocese of Boston, instructing, or requesting, or urging that flock, on the following day, to vote against that Constitution.

Mr. HUNTINGTON.—I do not know it.

Mr. SLACK.—It may have been without the gentleman's knowing it?

Mr. HUNTINGTON.—I think not—I should have been likely to have heard of it.

MR. SLACK.—Well, sir, perhaps it was not; I hope it was not; but my authority for the statement is a letter written from the town of Northampton immediately after that election, by a responsible person, I suppose, whose name—

Mr. HUNTINGTON (interrupting).—Will the gentleman give it.

Mr. SLACK.—I do not know it; I say a responsible person, I suppose, whose name was with the editor, and published in a Boston daily newspaper, in which the fact was set forth at length. But, be it so or not, in regard to the letter from Northampton, I suppose there is no doubt that the foreign vote went on that side throughout the State. It was an outrage upon the intelligence and fair-dealing of voters in such a manner to defeat a measure,—and hundreds joined the new movement, which followed immediately after, to redress that insult. I am frank to say here, what I have said as frankly elsewhere, that but for the defeat of that constitution, I should not, in all human probability, have joined the American party.

Nor do I forget another cause that gave the new movement strength and speed in this State. We all remember the overtures made by the Free Soilers, last fall, to the twelvemonth before victorious Whig party, for a "fusion movement" in this State, similar to that in the other States, whereby all the people could avenge the passage of the Nebraska and kindred measures. We all remember, too, their refusal at their State convention, to accept the proffered union, preferring as they did to retain the paltry "spoils of office" which they held by virtue of their success the year before over the ruins of the new Constitution, rather than commingle in that generous uprising of the whole people of the North in attestation of their indignation at the atrocities of Congress. Well, sir, when the people of the State saw that selfishness, that neglect of the greater interests of freedom for the mere retention of place and power, they looked about them for the means to break down the party that was thus false to liberty and humanity. They found the new organzation. It was a weapon ready to their hands; they seized it, and with it they dashed into pieces the just before proud and victorious Whig party—how well, let the eighty-one thousand votes for the successor of Emory Washburn tell! Not only did they do that, but they sent to these halls a Legislature which—if I may be pardoned for complimenting a body of which I am a member—is the strongest anti-slavery assembly ever known on this continent, a body with a keener conscientiousness, a truer sense of right and justice, than any before in this State, and whose acts of humanity and propriety, I fondly trust, are to be spread upon our statute-book more numerous than at any time heretofore,—among which, I firmly believe, is to be that most important and significant of all, the removal of this unjust Judge from the position which he dishonors. Such acts of this Legislature will the best testimony of its worth and usefulness.

The American party, I admit, has made its mistakes; but what great party has not? It has committed some follies, and through some of its members attempted that which is its chief complaint against the Romish potentate, a petty despotism

Mr. KNOWLES of Eastham.—I rise to a point of order. The removal of Judge Loring, and not the acts of the American party, is the subject before the House.

The SPEAKER.—I understand the gentleman is illustrating his position by reference solely. Other speakers having referred to the American party, in a wide latitude of debate, the gentleman probably feels authorised to follow them. He will, however, confine himself as near the main question as possible.

Mr. SLACK—Thank you, sir, I will. I should not have touched upon the American party and its acts, had not the gentleman from Northampton led in that way.

Mr. HUNTINGTON.—I made no attack upon the American party; I alluded to it merely as an existing fact in our politics, and that it held no position on the slavery question.

Mr. SLACK.—True; I do not mean to imply, in any thing which I have said, that the gentleman made an attack on the American party—I know he did not. But he will admit, I suppose, that he commented rather freely upon Free Soilers going into that party; that he intimated that "a certain Dr. upon this floor," whose name he would not mention, was "the bell-wether of the flock from the Republican fold," who, with Senator Wilson, had "slid into, or slid up to," the American party, &c. I have been trying to show why they went there, and what they have been doing while there.

Yes, sir, the American party has made some mistakes, and probably will make some more; but in this State, at least, it has got the anti-slavery sentiment within it, and will give utterance to that sentiment, *or cease to be an organization.* I repeat, the American movement was a necessity of the times, and as such, and for its action thus far, in this State, I am ready now, as I trust I ever shall be, to defend it with perfect good will.

But the American party, generally, throughout the country—what of that? what has *it* done? I will speak solely of what I know, and that is of the party in the Northern section of the Union. Does

the gentleman know that the American party wa a very material force in nearly all the "fusio movements" of the different States the past fa and present spring?—that in the great Northwes and elsewhere it was in a great measure a compo nent part of the "Republican" organization? I he does not, he will allow me to tell him that he i as uninformed of the facts, as he certainly has bee of the philosophy, of the American movement Why, in Maine, it gave us Governor Morrill; i Pennsylvania, Governor Pollock; in Iowa, Senato Harlan, in place of one Augustus Cæsar Dodge; i Illinois, Senator Trumbull, descendant of Trumbul of Connecticut Revolutionary memory; in Wiscon sin, the Congressional delegation, save one; i Michigan, again the Congressional delegation, sav one; in Ohio, the entire Congressional delegation with no exception; in New York, Wm. H. Seward even, for U. S. Senator, through the votes of the anti-slavery members of the organization; in New Hampshire *everything*, sir!—a victory which is to result, I fondly anticipate, in returning to the United States Senate, by almost unanimous consent, JOHN P. HALE, for another term of six years! (Demonstrations of applause, which the Speaker instantly checked, Hon. Mr. Hale being seated at the time by his side.)

But, sir, tempted by the remarks that have been made, and the illustrations before me, I have wandered far from the immediate issue presented to us, as I have occupied more of the time than I intended. Let me come back, at once, to the direct question. That question, after all, is—Is a man who voluntarily reduces a fellow man to slavery, fit to be a Judge in Massachusetts? To answer it, I will simply say—had he taken him from the coast of Guinea, all would at once agree he was *not* fit. Is liberty less sacred, then, in the streets of Boston than on the coast of Guinea? The *manner* of making a slave is only an incident thereto. In moral philosophy, as in the minds of all just men, there can be *no* distinction between the crime of him who wantonly steals a man from the Afric coast to make him a slave, and he who voluntarily reduces, under *any* circumstances, a freeman on Massachusetts soil to the same hopeless condition.

I desire to refer to the fifth article of the Massachusetts Bill of Rights, to show my and your relation to the man who has done this great deed of shame—though the point was well presented by my friend and colleague [Mr. Swift, of Boston] in his eloquent opening remarks. That article is as follows:

"All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or *judicial*, are their *substitutes and agents*, and are at all times accountable to them."

Yes! all judicial officers are *our* "substitutes and agents"—are *my* "substitutes and agents." Then do I, for one, hold *this* substitute and agent to strict account for what he has done. I may not, like the proud monarch of Europe, exclaim, "I am the State!"—but I can say, without excess of assumption, "I am a sovereign—I am your principal; you are my agent, servant—the public's agent, servant—to it and me, give an account of thy stewardship!" Has he done *my* wish in this transaction, for which he is arraigned in common before this tribunal of the people? I answer—he has not!

The manner of his action was highly objectionable. He pursued his examination, on the first morning, with unbecoming haste. I firmly believe that but for the earnest pleadings of Messrs. Dana and Ellis, the poor fugitive's counsel, with the efforts of other friends, he would have been consigned to slavery before meridian of that day. That haste is not compatible with the idea of justice in this free Commonwealth of Massachusetts.

The hunted fugitive proved an *alibi*, that should have secured his release. Everybody knows from testimony educed at the examination—evidence from men of unimpeached integrity living in this community, one of them a member of the lower branch of our city government, another at one time my next door neighbor, and a host of others as worthy—that at the time his alleged master, Suttle, and his chief condemning witness, Brent, as well as the record which they bore from the court of Virginia, testified that he was in the streets of Richmond, he was humbly yet honestly cleaning the windows of a machine shop in South Boston. I say everybody here knows that this was a fact not to be gainsayed. And this *alibi*, so well proven, so momentous to this man standing before a Massachusetts Judge for that which was dearer to him than life itself—his liberty!—so fatal to the record which those men bore with them from Virginia—an *alibi*, which in the pettiest court of the State would have been effective in releasing culprits on trial for robbing a hen-roost—could not be received to give this man his liberty, his right to his body, aye! the sweet communings of his own soul!

The prisoner was allowed to sit in that court room, while the trial for his liberty was going on, with his shackles on—his wrists encircled by steel handcuffs—the question of freedom or slavery undecided, and when by all the forms and admissions of law, as *we* know it, the accused is presumed to be innocent until proved guilty. This was before a Massachusetts Judge, mind you; in a court-house owned by the county of Suffolk; with all the outward semblance of a hall of justice! Was such conduct becoming? And in testimony of this fact, there is now in or about this House, an affidavit or certificate from Mr. Burns himself, over his own signature and sign-manual, written with his own hand, which any member can see who desires, corroborating in every particular the assertions of Mr. Ellis, his counsel, that while that trial was proceeding he was there sitting with his irons on!

In the common belief that the decision to be rendered was known to certain parties before it was announced in court, I fully concur; and a single circumstance impels me to it. I well recollect that awful morning. It was a bright, cheerful, summer's day. I early passed into that square about the court-house with a hoping heart, believing that the man must be freed. But how my heart fell as I saw the preparations made. There was the building surrounded by the police force of the city, but a few paces distant from each other; there were the lines of iron and rope stretched across the streets; drawn up by the main entrance on the easterly side of the court-house, so that in entering every person passed across the range of its gaping muzzle, was a brass field-piece,—six, ten, or twelve pounder, I know not which, apparently loaded and ready for dreadful use; thronging the halls, staircases, and every aperture leading to the court-room, were the hired soldiery of the government; there was the rapid hurrying to and fro that denoted arrangements fully completed and rapidly consummating. But nowhere were the slave-owner and his chief witness. Why their absence? That morning, about seven o'clock, there dropped down from her moorings at the navy yard, the revenue cutter "Morris;" she stayed her way off one of our wharves till she took on board Suttle and Brent, and then quietly glided a little further down the stream. The court opened at nine o'clock, and the decision was then publicly given. How came that national vessel to be previously engaged, why left she her moorings, why tarried abreast that wharf which stretches its long pier into the sea, if no one knew of all the infernal atrocities that were to follow? The decision came; the trembling fugitive went into the hands of the marshal; that hollow-square of reeking humanity yawned to receive its victim; the infamous *cortege* moved; and down the street and along the wharf it passed, till a steamer ready waiting took it on board, drew nigh the cutter, and delivered its human freight, under "ward and bayonet" of national soldiery, to the custody and tender mercies of the flesh-owning claimant and his friend; and over the bright waters of Boston harbor and Massachusetts bay was borne that captive to Southern bondage, decreed so by the man, upon whose broad shoulders rested the hitherto spotless ermine that attested the purity of his office! Why, I ask, did those base men, if the decision was not known, so early in the day secure a passage hence by the slow motions of a sailing vessel across the waves of the great ocean, rather than seek the ease-giving car, which, tackled to the swift-speeding iron-horse, would have whirled them across the bosom of the land, from the home of abashed schools and churches, to their own hideous realm of blight and scourging?

One more thought only presents itself, and I will relieve the overtasked patience of the House. My good friend from Cambridge, [Mr. Williams,] with whom I have been happy to agree in so many measures this session, and who told us, as he did with truth, that when Mr. Grimes called upon him with the subscription for the purchase of Mr.

Burns, he went away with over two hundred dollars nearer his desired sum, and earnest entreaty for haste in his benevolent mission—a fact which allows me to add in the gentleman's absence what I should not want to say in his presence, that his heart and his purse are always equally open to every deserving enterprise—in his remarks on this question, said he thought Judge Loring but represented the sentiments of this community, and that if he lacked any confidence, it was only that of a few colored citizens. I am sorry that I cannot agree with the gentleman. I think there are many others than "a few colored citizens" who withdrew their confidence from him. There are many, not colored, who, knowing his care for the widow and fatherless, would that he had not lent *his* aid to the enslavement of those who are in deeper distress than the widow or the orphan. There are those who, reluctantly acknowledging that the *majority* of this community *are* ready for the rendition of the hunted, flying fugitive, would have that Commissioner, who had already covered himself all over with infamy by his participation in these slave-catching atrocities, retain his monopoly of the debasing servitude, claiming that he who was the *Judge of Probate* should be the friend of the poor and friendless, the forsaken and alone,—the representative and advocate, if such were possible, of the *minority* of this community on this great sentiment of the Christian heart. Of that number I profess to be one. I claim that Judge Loring, by virtne of his beneficent office, should have been for *us*. Let the Curtis act for the majority!—he has earned his reputation!

But he whom we claimed, failed us. He lacks *our* confidence, as well as that of the "few colored citizens." He lacks *my* confidence, and that it is why I shall give my vote in proper time for his removal from the place which I feel he has dishonored. I bear no ill-will towards him; his smile is as genial to me as to any one else, for ought that I know; I doubt not his integrity; I revere his abilities; I only would that he had not done the deed! I am a native of Boston; I was reared and fostered in her common schools; for all that I am or may be I am indebted to her, who kindly took me in her arms, and gives me of her enterprise and good-will. I am mindful of her good name, and dear to me is her untarnished reputation. It is a city of pleasant memories,—of a Revolutionary history illustrious in every page of its annals. I expect always to live here; and when I come to pass away, to be placed within her bosom or laid to rest in one of the neighboring cemeteries just without the city's gates. I have a wife and child, in whose happiness I have an abiding interest. Should this Judge be retained, in the vicissitudes of life as of death he may be called upon to pass upon my limited estate and feeble effects. If so I have only to say, let no instrument that passes from that office to my widow and child, ever be pressed by the hand, or bear the signature—the same hand and the same signature—that reduced a MASSACHUSETTS FREEMAN to the condition of a *Southern Slave!*

Mr. HUNTINGTON followed, and proposed an amendment, or substitute for the conclusions of the Committee, as follows:—

Whereas, petitions from various parts of the Commonwealth have requested the removal of Edward G. Loring from the office of Judge of Probate for acting as a Commissioner of the United States Court in the extradition of Anthony Burns while holding said office; and whereas the convictions of a large number of citizens lead them to condemn said act; therefore

Resolved, That the Legislature of Massachusetts respects these convictions, and hereby express their deep regret and disapprobation of this act on the part of the Judge of Probate for the County of Suffolk—and it is further declared that the taking of such jurisdiction—hereafter, as Commissioner under the United States by any person holding the office of Judge of Probate or any other judicial office, shall be deemed a sufficient cause for removal from office under the power of address ordained by the Constitution.

Mr. HUNTINGTON said that he thought the preamble and resolution expressed the sentiments of a majority of the people of this State. He made a speech of some length in reply to several allusions that have been made to himself in the course of the preceding debate, and gave his views of the effect the removal of Judge Loring would have upon the American party and others at the next election, contending that the people of the State do not call for it. He alluded to the inconsistency of those who insisted upon punishing Judge Loring and allowing so many other distinguished and important individuals to escape. Mr. H. was interrupted several times by members who made personal explanations.

Mr. ELLIS of Rochester proposed as an addition to the resolve and address, a proviso that if Judge Loring shall within three days after their adoption, signify his resignation of the United States Commissioner, then this address shall not be presented. He moved it as an amendment to Mr. Huntington's amendment, and supported it in a short speech.

Mr. WARNER made a speech, principally in explanation and to set himself right with respect to his position in regard to his colleague, Mr. Huntington.

Mr. GIFFORD of Charlestown made an argument of some length in favor of the removal of Judge Loring.

Mr. SLACK of Boston then moved that twelve o'clock tomorrow be assigned for taking the final question on this subject, but it was afterwards agreed and the House voted that the whole matter should be decided at half-past eleven o'clock tomorrow.

Mr. HUNTINGTON withdrew his amendment in favor of that proposed by Mr. ELLIS of Rochester, and the yeas and nays were ordered on the question of the latter proposition. Adjourned.

Evening Telegraph.

BOSTON, TUESDAY, APRIL 17.

Orders of the Day. These being taken up, the first matter was the motion to reconsider the vote whereby the report relative to the removal of Edward Greeley Loring from office was accepted. Mr. JOHNSON of Lawrence, at once moved the previous question, cutting off a speech which Mr. JOHNSON of Boston, who made the motion to reconsider, wished to make, which was sustained, and the House refused to reconsider by a large majority.

[For the Telegraph.]

Messrs. Editors: I observe that Mr. Huntington of Northampton is reported as saying in the House that "Theodore Parker was at an excited meeting at the bottom of all this movement" for the removal of Judge Loring. The first petition for the removal of Judge Loring was written by one of the editors of the *Commonwealth*, and was printed in the afternoon edition of that paper on the day Judge Loring sent Burns into slavery, and within an hour of the time Burns was carried down State street. A copy of the petition was also placed in the counting room of the paper, and received a number of signatures. Without wishing to detract from the merit of Mr. Parker in this matter, I think it is proper that this fact should be known.

R.

DAILY ADVERTISER.

BOSTON:

THURSDAY MORNING, APRIL 19, 1855.

Massachusetts Legislature.

Reported for the Boston Daily Advertiser.]

SENATE.

Case of Judge Loring.—The report on the case of Judge Loring was taken up at 12 o'clock.

Mr. PIERCE said he had no case to argue, and no wish to change any man's convictions. But he wished to present his objections to the majority report. He knew his position on this question would grieve many of his friends He deemed this question one of paramount importance, because he regarded slavery as the greatest of evils. He had no fear of any results that might follow the removal of a probate judge. His removal would not harm the judiciary. If it was right to remove him, he ought to be removed.

It seemed to him that the feeling of those who sought Judge Loring's removal was truly described by that passage of scripture, "Without the shedding of blood there is no remission of sin." They demand a victim. There is an insane cry for a victim, and they hold that nothing short of a victim will produce the requisite impression here, at Washington, and throughout the country. A victim must be slain.—Judge Loring must fall. The great point is to secure right action for the future, and they insist that nothing short of a victim will do this. He did not agree with them.

An evening paper had stated that when the news of the passage of the address in the House was announced in the Methodist Conference in session at Chelsea, the whole body of the ministers composing the Conference rose and gave three cheers. His blood boiled when he read it. It was a lie, and had been contradicted; but the spirit that indited and published that lie exhibited the true character of that disposition which sought to make Judge Loring a victim.

He sympathized with the women and children who had petitioned for his removal. The removal of Anthony Burns from Boston to slavery was worse than the removal of a black man from Africa to a Southern plantation. It was a horrible thing. But such petitioners had not fully considered whether in view of all the circumstances it would be right to remove him. Moreover it did not appear that the people in Judge L's district or that anything like a majority of the people in the State, demanded his removal.

But the strongest point against passing the address was that the report of the committee, by bringing charges against Judge Loring, and particularly charging him with violating the law of 1843, had put it out of the power of the legislature to remove him by address. If he is removed now, he must first be formally impeached, for no other method of removal is now constitutional. Charges have been made against him; but there has been no trial; he has not been heard on these charges; and as the case now stands there must be a formal impeachment before his removal can be constitutionally effected.

He said that before the committee the testimony of Mr. Dana and Mr. Phillips had not agreed as to Judge L.'s manner of conducting the Burns case. On this point there was at least a doubt, and in a summary proceeding like this, the benefit of the doubt should be given to the accused. Mr. Phillips had also admitted that Judge Loring was the best man they could have selected, and it was because a good man had enforced the law that the heart of the people was stirred.

He maintained that the prevalent sentiment of Massachusetts had not been opposed to the fugitive slave law. Neither the press nor the pulpit had been against it, and the reform Mayor of Boston who stood by the Marshal in returning Burns, was re-elected by an overwhelming majority by the very party which is now dominant in the Legislature, in spite of the united opposition of the anti-slavery and religious press.

Mr. P. stated that the Committee on Federal Relations to which he belonged would soon report a personal liberty bill, which would have his earnest support, and which he thought would secure for the future all that could be desired. Therefore he hoped that the present movement against Judge L. would not be urged. He urged also that the law of 1843 had no application to the fugitive law of 1850, and that there was no law or judicial decision of Massachusetts in conflict with the action of Judge L. in the Burns case.

Mr. Pierce spoke at much length, and concluded by saying that he was ready to go almost to nullification against the fugitive slave bill, but he insisted with great earnestness that there should be no attempt to remove Judge L. without a formal trial on the charges made against him.

The further consideration of the subject was specially assigned for to-morrow at eleven o'clock. Adjourned at fifteen minutes before two.

prosecutions.

Case of Judge Loring.—At 12 o'clock the report on the case of Judge Loring was taken up.

Mr. DAWLEY of Bristol said he approached the subject feeling that it was one of the highest importance, involving great consequences. He should vote to remove Judge Loring, and would do so if he stood alone. There could be no question as to the right to remove him by address, and "loss of confidence" was a sufficient reason for removing him by this method. He had willingly executed an unconstitutional and unrighteous law. He was not bound to be a fugitive slave law commissioner; he might have resigned. By doing so he would have furnished a glorious example and testimony against the unrighteous law. He did not do so and in his remonstrance he justifies his conduct. In the Burns case he being a judicial officer acted against what he knew was the expressed and reitcrated sentiment of the State.

It is said that his removal will endanger the independence of the judiciary. Well then, let it do so! But a true independence of the judiciary in Judge Loring's case, would have kept him from returning Anthony Burns to slavery. He should vote for the removal, and these were some of the reasons which would lead him to do so.

Mr. Cook of Worcester, spoke in reply to Mr. Pierce. He commonly agreed with Mr. P., who opposed the fugitive slave law. That law was horrible, and he (Mr. C.) loved to hate it. He referred to the feeling among the Methodist ministers in reference to this matter, and said he had the means of knowing that they were all or nearly all in favor of the removal. They had not given three cheers in conference, as had been represented; but they were all in favor of the measure proposed. Mr. P. had urged that Judge L. acted honestly; so did Pilate when he delivered up Christ to be crucified. As to the representation that Judge Loring could not now be removed without impeachment, he had to say that Judge L. should pray to be saved from his friends.

He gave the following as the reasons why he should vote for the removal:—

1. Judge L. has no vested right to the office of Judge of Probate.

2. The offices of Judge of Probate and fugitive slave law Commissioner are incompatible, and he could not consent that a judicial officer of Massachusetts should officiate in the latter office. He felt it his duty to vote for the removal.

Mr. Pierce made some explanations, reasserting that the report charges Judge L. with violating the law of the State, and thus makes it impossible to remove him constitutionally without impeachment.

Mr. Pillsbury of Hampden, read a long speech in favor of the removal, but presented nothing new on that side of the question. Most of his speech was devoted to Judge Loring's manner of conducting the Burns case, and to Mr. Dana's account of the matter.

Mr. White of Norfolk, said the simple question before the Senate was one of right. If it was right to remove Judge Loring, it should be done; if it was wrong it should not be done. He had been surprised at the course taken by his colleague, Mr. Pierce, who was at heart against what Judge L. did in the Burns case; but he knew him to be honest. We should not let our eye pity when justice is to be done. He always pitied those who suffer the penalty of misconduct. Judge L. had no claim to the office of Judge of Probate, and there is no reason why he should insist on holding it when the State required him to leave it. There was sufficient reason why Judge L. should be removed. It had been said that Judge Shaw had endorsed the fugitive law and secured the rendition of Simms. Very well, he was ready to vote for the removal of Judge Shaw, 1st, because he has no personal right to the office; 2d, because he has held the office long enough, and 3d, because he endorsed the fugitive slave law and thus secured the rendition of Simms. He thought that Judges should feel their responsibility to the people.

He did not understand that the report made charges against Judge Loring, such as Mr. P. alleged. He wished to make Massachusetts an inconvenient place for slave catchers to do business in. He held it to be a great crime to return a fugitive slave. He went for nullifying all bad laws, by resisting them in all the courts and through all the courts up to the highest in the land. He felt that all wrong should be nullified everywhere. Mr. White spoke at considerable length.

Mr. Palmer moved that the vote on the question be taken on Saturday at half past one. After some conversation, Wednesday next week at one o'clock was assigned as the time for taking the vote.

Adjourned at ten minutes past two.

The *Journal* shows that the representatives of the people do not represent them; that owing to "circumstances" the majority of the popular branch of the Legislature are not in accordance with popular opinion!

The action of the House of Representatives, in the matter of Judge Loring, no more represents the sentiments of Massachusetts, than the doings of the Nunnery Committee are in accordance with her public opinion. Circumstances have conspired to place in the popular branch of the Legislature a majority of radicals—of men after the *Tribune's* own heart—but the time is coming when Massachusetts will in truth be right side up, and when the removal of Judge Loring, if it is accomplished, will be condemned as effectively as the debauches of the Nunnery Committee. The sentiment of Massachusetts is eminently conservative, and the "sober second thought" of the people will rebuke the gross abuses, the fanaticism and ultraism of the radical element in the present Legislature, as assuredly as the sun will rise to-morrow.

Affidavit of Anthony Burns. We give below the affidavit of Mr. Burns, alluded to by Mr. Slack, in his remarks in the House on the removal of Judge Loring, by which it will be seen that the statements of Mr. Ellis, relative to his being in the court-room in irons, are fully corroborated, as well also as the evidence that he was at work in South Boston when it was alleged he was in Virginia:

HAMPSHIRE ss. *April 7th*, 1855. Anthony Burns, now of Amherst, in the county aforesaid, upon his oath, doth depose and say, that he was immediately taken to the Court House in Boston, on the night of his arrest in May last, and was there confined through the night under the charge of officers Butman, Pray, Page, Coolidge, and others; that in the morning, just before he was taken to the Court room for trial, officer Butman placed upon the wrists of him, the said Burns, a pair of hand-cuffs, which were not taken off till the close of the first day's proceedings. They were not kept on during the night, but on the morning of the second day before going to the court room, the irons were put on as before, and kept on till the proceedings of that day were about half through, when they were removed by one of the officers.

Deponent further says that he does not know by whose order the irons were removed. On the succeeding days of the trial, the irons were worn by deponent while he was being removed from the room where he spent the night to the court room. Deponent further says that the irons were very tight and uncomfortable, but he does not think that his wrists were wounded by them. The scars upon the wrists of deponent were produced by irons worn by him after his return to Virginia.

Deponent further says that he worked in South Boston with Mr. Jones some days before he commenced working in Brattle street.

(Signed) ANTHONY BURNS.

Subscribed and sworn to before me

I. F. CONKEY,
Justice of the Peace.

Mr. Sumner closed with a splendid appeal to the citizens of the Free States on their duty with regard to slavery. In the course of it he gave the following unmistakable evidence of his opinion of the case of Judge Loring. From so learned a lawyer as Mr. Sumner, speaking with the cautiousness demanded by his high official position, no less than by what is due to his distinguished reputation as a statesman, this clear and decisive declaration will undoubtedly have great weight. It is evident that Mr. Sumner has no fears for the Judiciary:

"But without waiting for the overthrow of the slave power on the broad field of national politics, it must be first overthrown here on the soil of Massachusetts. (Applause.) Here within our own borders at once this *must* be done; and it *can* be done. Surely we can emancipate ourselves. 'A lie,' says Carlyle, 'should be trampled out and extinguished forever;' and nothing less should be done with a tyrannical and wicked enactment. The Fugitive Slave Bill, should it continue longer on the statute book, must be made a dead letter; not by violence, not even by hasty conflict between jurisdictions; but by an aroused Public Opinion, which shall blast with contempt, indignation and abhorrence all who descend to be its agents. (Applause.) Thus did our fathers blast all who descended to be the agents of the tyrannical Stamp Act. Let their example be your all-sufficient guide. But the Fugitive Slave Bill is more atrocious, far than the wrong which aroused what John Adams called their 'unconquerable rage.' The slave trader, who drags his victim from Africa is loathed as a monster; but I defy any acuteness of logic to show the moral difference between his act and that of the man who drags his victim from Massachusetts. (Applause.) A few puny persons, calling themselves the Congress of the United States, with the titles of Senators and Representatives, cannot turn wrong into right, or reverse the irrevisable law of God; they cannot make him wicked who hunts a slave on the burning sands of Congo, and him virtuous who hunts a slave in the colder streets of Boston; nor can they distinguish between the bill of sale by which the unhappy African was originally transfered in Congo, and the certificate of the Commissioner by which he was reduced anew to bondage. (Great applause.) For the sake of consistency, and in the name of justice, you must be ready to apply to these kindred transactions a kindred condemnation. (Renewed applause.)

One man's virtue becomes the standard of excellence for all, and there is now at your door a simple citizen, whose example may be a lesson to marshals, magistrates and commissioners. I refer to Mr. Hayes, who resigned his post in the police of Boston rather than become a slave hunter. (Applause.) Better be a doorkeeper in the House of the Lord, than a dweller in the tents of the ungodly. For myself, let me say, that I can imagine no office, no salary, no consideration, which I would not gladly forego rather than become in any way an agent in enslaving my brother man. Where for me would be comfort and solace after such a work? In dreams and in waking hours; in solitude and in the street; in the study of the open book and in conversation with the world, wherever I turned there my victim would stare me in the face, while from the distant rice-fields and sugar plantations of the South, his cries beneath the vindictive lash, his moans at the thought of liberty once his, now alas! ravished away, would pursue me, repeating the tale of his fearful doom, and sounding, forever sounding in my ears, "Thou art the man!"

Evening Telegraph.

BOSTON, THURSDAY, APRIL 1[illegible]

The special assignment was called for—it being the report relating to Judge Loring.

Mr. DAWLEY of Bristol argued in favor of the report, because he thought it was *right*. The legislature had a right to remove judges. And one great reason why they should remove him was his loss of public confidence. The Fugitive Slave law was against the sentiment of Massachusetts. He Legislature had pronounced it unconstitutional; yet Mr. L., with probably a belief of its unconstitutionality, sent back a slave. As he would not resign, and thereby take a reproach from the State, he ordered his removal. His action was opposed to the sentiment of Massachusetts as expressed in the personal liberty bill of 1843, prohibiting Massachusetts officers from aiding in sending back slaves. He could not be excused for sending back Burns on the plea that he was executing the law of '98—for he was breaking the law of 1843. He thought the confidence of the people in the judiciary would be increased by the removal of Judge L.

Mr. COOK of Worcester was in favor of removal. He alluded to Mr. Peirce's remarks yesterday, and, alluding to the Methodist conference, did not think there was one man in ten in that conference or the denomination, who would not favor this removal, and thought Mr. P. stood almost alone among them. He reviewed Mr. P's. argument in its various points; and, alluding to plea of Mr. L's. kindness and conscientiousness, cited Pilate as an example of sincerity. With regard to Mr. L's. kindness, he did not believe a man could be good who so readily agreed to send a soul back to slavery. Alluding to the plea that the sentiment of Massachusetts was in favor of excuting this law, he thought it was not so. He disclaimed a vindictive spirit toward the Judge, but justice must be done though the heavens fall.

Mr. PEIRCE made a few words of explanation, when

Mr. PILLSBURY of Hamden spoke in favor of the report. He said the offices of Judge and Commissioner were incompatible. Sending back the slave was opposed to the sentiment and law of Massachusetts. He should have resigned, and thus secured to himself a good name instead of reproach. He had shown no contrition for the act, and as the people cannot remove him from the office of Commissioner, he bids defiance to them. But we can remove him from the judgeship.

He alluded to the right of trial by jury, which our bill of rights provides, and said Mr. L. had violated this instrument in returning Burns. By violating the law of 1843, he had become liable to fine and imprisonment. As he had violated both statute law and bill of rights, he should be removed. Massachusetts should put on her bench those who would not fly in the face and eyes of her laws.

Mr. P. would not lose sight of man in his admiration of the Judicary. He cited cases of the removal of judges, not for official acts *as* judges, but as justices of the peace. There were, therefore, precedents for such removals as they contemplated.

Mr. P. argued that each new act of agression on the part of the South, deepened the public sentiment against slavery, till, at the time of the rendition of Burns, the sentiment of State street even did not require it. Alluding to the *kindness* displayed by Mr. L., he said he did not care if he was going to be killed,—how gracefully his assassin held the knife. If his murderer shed a few tears, he should call them *crocodile* tears. He criticised most sharply and sarcastically the course of Judge L. in the trial, and the remarks of Mr. Dana in his defence.

The Constitution admitted the *right* of the Legislature to remove without a reason. But the matter, though very grave, was very simple. He then briefly detailed the points of objection to the continuance of Mr. L. in office, which closed his speech.

Mr. WHITE of Norfolk, addressed the Senate. Like his colleague who spoke yesterday, he considered the question to be one of *right*. If we cannot sustain the honor of Massachusetts without sacrificing Judge Loring, then such sacrifice is right. Judge Loring had no *claim* on Massachusetts for continuance in that office. Therefore, no wrong is done him if the people see fit to remove him. He accepts the office under these conditions, and is a "tenant at will." Especially, then, have we the right to remove him, if he has done that which is wrong. It has been said that Judge Shaw was as guilty in the Sims case as Judge Loring in that of Burns. Be it so, he wished we had the power to remove *him*. If the question was between the independence of the people and that of the judiciary, he would sustain the former.

[Mr. White spoke at some length, but we are unable to report his remarks further.]

Mr. PALMER of Berkshire moved that Saturday next at half-past one o'clock, be specially assigned as the time for taking vote on the subject.

Mr. BARKER of Suffolk, moved to amend by substituting Wednesday next, at one o'clock. The amendment prevailed.

National Anti-Slavery Standard.

WITHOUT CONCEALMENT—WITHOUT COMPROMISE.

DOINGS IN MASSACHUSETTS.

Massachusetts, during the past week, has done two notable things; two things not to be forgotten in our generation, and which those coming after it will mark as positions won, and points to make new attacks from, in a great battle.

The removal of Judge Loring—the unfortunate, feeble Judge Loring, who, in quieter times, would have lived harmless and unharmed, and been buried with an unqualified "hic jacet"—has been recommended to the Governor, by the lower House of the Legislature, by an overwhelming majority. The probability is that the Senate will concur, and the Judge will be compelled to retire, unless President Pierce takes care of him, to private life. One can hardly help feeling a sort of commiseration for him, for we doubt if he meant any harm. It had never occurred to him that he had any business to be wiser or better than his neighbours, even if he had the power. Massachusetts morality and Massachusetts religion had not, a year ago, if it has now, risen so high as to condemn that worst of all thefts, the theft of a man, and Judge Loring would as soon thought of accepting a bribe to destroy a private record as to refuse obedience to the Fugitive Act of 1850. Thou shalt return to his master the fugitive from labour, had all the force with him of the commands of the Decalogue. He had never been taught anything else; he had never heard of anything else, at least from any respectable quarter; and it was as impossible then for him to do anything else as it would have been for him, a hundred years ago, to question the Divine Right of Kings. He saw his path of duty lay straight before him; morality had nothing to do with it; humanity had nothing to do with it; Christianity had nothing to do with it; there was nothing in question but a "nigger," and he would as soon have thought of considering a beast a man. It is evident that he was utterly incapable of conceiving of any other idea than that which he found ready-made for him in the mind of the community about him. He had no idea of his own about the matter, but simply did as a blind horse in a treadmill does—treads on as he is bid, not knowing what he moves, nor why he moves, except that there is a whip behind him, and oats when the time comes round.

But, unfortunately for the Judge, he was called to act when, all unknown to him, a new light had broken upon the people—that a man is a man, though be be a black one, and that to make a slave of him is as shocking an outrage upon humanity, and as daring an insult to God, as human depravity has ever dared to commit. The awakened sense of right seizes upon the first offender that presents himself. The stolid and blind Commissioner, incapable of discerning the signs of the times, utterly incapable of any other ideas than those which have been taught him, is offered up as the first sacrifice. The weak man, in such a case, suffers as heavy a penalty as though he were a conscious and determined villain. He deserves his punishment; indeed, it is a serious question whether society does not suffer more from fools than rogues, and whether, if the former were all disposed of, the latter might not be suffered to go at large with impunity. Ben. Hallett, for instance, does no great harm, for he passes for what he is worth; but Judge Loring was mischievous because he was only respectably virtuous, but too weak to be above or even to recognise a great and popular wrong.

The other thing which has been done in Boston within the past week, is the quashing of the indictments in the Burns case. We refer to our first page for the opinion of Judges Curtis and Sprague, delivered by the former. One of our contemporaries objected to the trial coming before Judge Curtis because he was a party deeply interested in its result. He has a private feud with some of the accused, and of all the men in Massachusetts, let their crimes be what they may, we doubt not, Judge Curtis would rather set Wendell Phillips and Theodore Parker to hammering stones in the State Prison. The objection to his presiding at their trial, therefore, was well taken, but, nevertheless, it was a fact of very great advantage to the accused. The worst thing that can befall a man, doubtless, Judge Curtis thinks, is to hammer stone in the State Prison—one thing only excepted; and that one thing is to sit as Judge Curtis on the Bench and have Theodore Parker and Wendell Phillips before him on trial, under the Fugitive Slave Law, and acting as their own counsel. The devilish ingenuity of man has invented a good many tortures, but Hallett would have exceeded them all had he succeeded in bringing Phillips and Parker before Curtis, *he* tied to his arm-chair, and *they* with unlimited freedom of talk! We doubt if any indictment could be framed, in such a case, in which the legal acumen of Judge Curtis would not be able to pick a hole quite large enough for him to creep through. That which he found in the present indictment was almost as small as could be, but it was evidently gladly used. But nobody can blame him, however much it may be regretted that he was not willing to consent to be a spectacle to men and angels.

This, no doubt, is the end of the Burns trials. The only man who is likely to be punished—as Judge Curtis has so ingenuously escaped the penalty prepared for him—is the Commissioner who returned the man to bondage. We would not be premature in our rejoicings, but should the Senate confirm, as it is confidently believed it will, the vote of the House, and the Governor comply with it, we shall, for once, unite with the concluding prayer of the Annual Thanksgiving Proclamation—"God Save the Commonwealth of Massachusetts!"

BOSTON DAILY ADVERTISER,

Charles P. Huntington,

Of Northampton,

IN THE MASSACHUSETTS HOUSE OF REPRESENTATIVES, APRIL 11, 1855.

Mr. Huntington began by remarking that it had been said by the gentleman who opened the debate, that the leading object of the Bill of Rights in our Constitution was to secure the rights of the people, and continued :—I suppose, Mr. Speaker, that this means all the people of the Commonwealth, Mr. Loring among the rest, and the same Bill of Rights further provides, that "it is the right of every citizen to be tried by judges as free, impartial, and independent, as the lot of humanity will admit." Inasmuch then as Judge Loring is on trial—not as a Judge—not for anything done in his official capacity as Judge of Probate—he is entitled to the same impartial tribunal as any other citizen. We are his tryers. We have laid aside the common business of legislation, and under the oaths we have all taken faithfully and *impartially* to discharge and perform *all* our duties, according to the best of our abilities and *understanding*—not according to our feelings, our prepossessions, and prejudices—agreeably to the constitution and laws of the Commonwealth—and under the same oath also that was taken by Judge Loring, to support the Constitution of the United States, we are undertaking to exercise the highest power known to the Constitution of Massachusetts.

We are now sitting as judges, not expressing out-of-door opinions, and we have called on God to help us. I do not know how other gentlemen may feel, Mr. Speaker, but, for myself, I shrink from the duty. I feel entirely unfit to judge Mr. Loring. But the question is here, and we must meet it. Under our solemn obligations, it is wrong in my judgment to appeal to our passions, our prejudices, or our anti-slavery sentiments, or prepossessions, as has been done on the floor of this House, by those judges, who, as advocates, urge the exercise of this high power of address. What an opportunity to sting our political adversaries to the quick ! Have we no desire to grasp it ? Is such a desire consistent with our duty, representing the Commonwealth, and not sitting here to carry out the behests of a party ? Sir, this measure never would have been attempted, had it not been for the passage of the detested Nebraska bill. Those whom I have found in conversation, most eager for this removal, are men who a little more than a year ago, and before that repeal, were among the supporters of the compromise of 1850—fugitive slave law and all. Now goaded to madness, because they have been cheated, they would wreak their revenge upon one of our own citizens. They are new converts to the anti-slavery faith—and new converts, whether in religion or politics, are always the most zealous.

Again, Sir, have he not at this very session, passed Resolves declaring the Act under which Judge Loring rendered Burns, to be unconstitutional; and shall we, entertaining these opinions, directly opposed to those under which Judge L. acted, undertake to punish him because ten months ago he had not adopted our present convictions on this subject ?

And it is to be remembered too, that he was supported in his opinions by every Judge of the United States Court, by the Judges of our own Supreme Court, by almost all the judges of the State Courts, so far as their opinions have been made known, and we are called upon to punish him for not having, in advance, adopted the present faith of Massachusetts, assuming it to be, what *we* at this session have expressed. Can we coolly and dispassionately pass upon the conduct of a man who has acted under a law that we detest?

Again, Judge Loring has not the chance for a fair trial, that he would have, under an impeachment There the Senators are the judges and not the House. They do not make the charges, but they are presented by the House. Here, the House accuse and judge also. There, they are specially sworn, truly and impartially, to try and determine the charge presented, according to evidence. Here we are undertaking to try and determine without hearing evidence. The evidence is not even reported to us in full, on which the committee base their report. A bare majority of them demand us to adopt their conclusions, without even hearing the testimony on which they are based, as to all their heads of allegation except the first of the four distinct charges made by them against Judge L., three of them depend entirely upon the weight and character of the evidence. These are the several heads. First, they say he violated the law of Massachusetts of 1843. Second, that he did acts affecting his judicial weight in the public, and decided against the judgment and weight of evidence on the trial of Burns. Third, that he acted upon knowledge that he acquired extra-judicially, or put himself in the way of being influenced by it—that is, by drawing a bill of sale to set Burns free. Fourth, "by allowing the trial to be held and conducted with soldiers so as to outrage the sense of the people." It must be perceived, therefore, that as to all except the first—as to everything excepting the facts that Judge L. while holding the office of Judge of Probate for Suffolk acted as a United States Commissioner in the rendition of Burns,—our opinions are to be based upon correct conclusions as to evidence. Conflicting statements are to be reconciled—the credibility of witnesses is to be weighed, and yet we have not, as the House of Representatives, seen a single witness testify or heard him testify. Sir, in the exercise of such a power as this of address, so far as it depends upon the truth of alleged facts, the witnesses should be called upon the floor of this hall and examined in the presence of every member of the House.

It does not follow, that, because, under this power of removal, we have the power of tyrants or despots, we should therefore use it like tyrants, or despots.—

We are to exercise it, if at all, under all the checks and balances established by the Constitution—to construe it in connection with its provisions as to the tenure of the judicial office, and to apply the principles guaranteed by the bill of rights, whether character on one side, or liberty on the other, is in question.

We are then acting in the capacity of judges, and we are, or ought to be, acting upon conclusions and opinions, or judgments formed in our own minds.—Sworn to support the principles of our Constitution, we are bound to be governed by reasons and not caprice or passion, and with what measure we meet, it will be measured unto us again.

To show that we are in no situation to draw any safe conclusions from the bill of indictment presented by the committee, I call attention to two or three of the charges contained in their report. It appears from their first report that so important did they deem this charge, that Judge Loring had been instrumental in drawing the bill of sale of Burns, for his manumission on Saturday, the night of the 27th of May, that the Rev. Theodore Parker was called and sworn, and produced the instrument that was then made out, as having been procured from one of the counsel of the kidnapper, in the hand writing of Mr. Loring.—From this, the committee say, "that these papers, imply at least a decision in Judge L.'s own mind, that Burns was the slave of the claimant, and that too, before he had heard one word of testimony on the part of the respondent." "For," they add, "no one will suppose he would venture to dratt a bill of sale until he had made up his own mind to whom the property belonged," and they ask, whether any reason could justify a judge or referee, pending a trial of title to a piece of property before him, to draw a bill of sale for one party. They put in the additional fact, that the counsel of the United States was present when it was done, as justifying the inference that only *one* party was represented.

Now in the second report of the committee, (it having been recommitted to hear the testimony of Rev. Mr. Grimes, the clergyman of the colored people of this city) it most distinctly appears, that it was only at the urgent solicitation of this very representative and friend of Burns, that Mr. L. undertook to see to the formality of certain papers necessary to secure him from the danger of a second capture—and that at great personal inconvenience, if not danger, he met, not *one* party, but all the parties, at his office about eleven o'clock at night—that Mr. Hallett was objecting to the sale, and that Col. Suttle's counsel suggested the necessity of having Mr. Loring draw the bill of sale—that Marshall Freeman having sent word to Judge L. that he could not leave his office, the judge then went to him, and there drew up the necessary papers, and they were not completed because Mr. Benjamin F. Hallett, the District Attorney, interposed the objection that it was Sunday, as our new United States Senator, Hon. Henry Wilson, did recently on another occasion, when the question was as to the admission of another free State—Oregon. These conscientious scruples being raised, though it might be supposed, that under the teachings of our Divine Master, even an ass might be rescued from the pit on the Sabbath day, much more a man, made in the image of his maker, or a whole territory of men, and that as a work of necessity and mercy, it might be justified under any code of laws, yet out of deference to the scruples of Col. Suttle, his counsel, and the vicegerent of Franklin Pierce—Caleb Cushing—amounting to a positive refusal to proceed further in the execution of the bill of sale, the matter was broken off. It further appears, from the second report of the committee, that so great was the anxiety of Mr. Grimes, lest the negotiation should entirely fail, in consequence of a rumor that the President had sent on a telegraphic despatch from Washington, that the rendition should be insisted on,—(for it is perfectly constitutional and legal that the messages of Satan should travel on Sunday with the speed of lightning to run down the messages of the gospel,)—that he again called on Mr. Loring in reference to the subject after evening service, at eleven o'clock at night, and informed him as to the despatches from Washington, that the man must be sent back, and that *he feared* that the claimants would not take the money. Mr. Grimes states further, that Mr. Loring thought they would take the money, and that if they did not, and there was a doubt that could be raised in behalf of Burns, that he should have it, and walk out of the court house a free man. Now, sir, one would would suppose that if any party had reason to complain of Judge Loring's conduct, it would be the claimant rather than Mr. Grimes or the Committee. Yet this is gravely alleged against Mr. Loring, as evidence of his being influenced to the detriment of Burns, and of having made up his mind as to the ownership.

As to the whole of this charge, as contained in the report, and as urged on this floor by those who have sustained it, it does seem to me a perfect torture of the facts to apply them as proving that Mr. L. had made up his mind upon the merits of the case before he had tried it. All who are conversant with legal proceedings, know that a bill of sale being necessary, Suttle claiming title, his drawing up such paper was no more an admission that his title was good, than taking a discharge of all demands from the beginning of the world to this date, from a person with whom you have a controversy, is an admission that you have been his debtor from the beginning of creation down to the present moment. Mr. Loring was first solicited by Mr. Grimes, assisted in the arrangement under the full belief that the claim was settled, and because the President of the United States and Messrs. Hallett and Suttle before Monday morning determined that the trial should proceed, he is now condemned. Mr. Grimes was disappointed, he says, because Judge Loring did not meet him on Monday morning as he agreed to do, but every one must see, that after it became apparent the trial must proceed, the relation of Mr. L. to the case was entirely changed. Saturday night he had been called in by both parties to see that Burns's freedom was secured to him by a valid title, but having ascertained that the papers would not be executed, there would have been nothing gained, and strong suspicion of impropriety of conduct, in holding a private interview with Mr. Grimes on the morning that the trial was to proceed.

Yet the committee venture to charge Mr. Loring with having made the papers in the presence of the Suttle party alone, and of having already decided the title in his own mind. But this might be excused on the ground that the committee had not fully possessed themselves of the facts on which they make their charge, and which they ask the House to sustain. How, after hearing the testimony of Mr. Grimes, they could permit the grave charge made in this respect in their first report, to stand unretracted, and uncorrected in the second, and permit the advocates of the address on this floor to reiterate the charges, and not correct them, is not so easily understood. It only proves, what I have already said, how unfit we are to proceed in this business, when we find men of fair and candid habits of mind, so warped by their feelings, as to construe evidence in the manner they have done in this report.

Again, Mr. Phillips in behalf of the petitioners has brought forward a distinct charge against Mr. Loring, of having so far made up his mind before the full hearing, that he warned him from attempting to do any thing to save the man from his doom. He testified first under oath to what passed between them in a private interview, and then before the committee charges that the first word of the first witness (Brent) of the claimant, was "the death-knell to any claim Mr. Loring might have to be thought a humane man, a good lawyer, or a just judge." He proceeded also before the committee to arraign Judge Loring in terms equally mild, for his action in the matter of the bill of sale already considered, charging also, that his removal for these acts would be merely cutting off a "*corrupt member*" of the bench, and the committee adopted his conclusions as to both. Why, Sir, there is reason to fear that this case was tried some weeks ago in this Hall and that some of the committee may have mistaken the applauses of an audience, that one day cheers Wendell Phillips, and the next day Sam Houston, for the sober, convictions of serious reflecting men. But, mark, how a plain tale from Mr. Phillip's own mouth will silence these rhetorical flourishes. The committee in their second report have published a portion of a speech furnished them by Mr. Phillips himself at the last hearing delivered at a meeting of citizens, *after his interview* with Judge Loring at Cambridge, when he says he had prejudged the case, and *after the* drawing up of the bill of sale of Burns, which he now says is proof of judicial corruption, in which he extols Judge L. to the skies as a man, and hurls all his thunder at the fugitive slave law itself, and even adverts to this same conversation, which now horifies him, without a single word of reprobation, and in the same connection with his eulogies upon him as a man ! !

He first remarks as one of the saddest features of the transaction that the Commissioner being a man of fair character hitherto, one whom we should have picked out as a gentleman who from his sympathies and past conduct was not likely to be the ready agent of the Fugetive Slave Law, should have issued the warrant, &c., and goos on to say, that from his common character for humanity, Judge L. summoned Burns to his side, and allowed him time to choose counsel, after the interference of Mr. Dana, and adds. "Now *this is the best thing we can expect under the Slave Law, from a Commissioner, perhaps the very best you could select in the United States of America. We could not hope to find a better man occupying that office, than the man who presided over this case.*" Not content with this, he goes on to say that but for the accidental discovery of evidence, under the provisions of the Fugitive Slave Law, "the best Commissioner we can ever expect to find" would have hurried him away in less than 24 hours into slavery. And that, he adds "is the justice of the Fugetive Slave Law in its very best form." Not one word in reproof of any thing

in the conduct of Mr. Loring, and every thing in denunciation of the law under which he acted. On the contrary while the law is condemned, the man who administered it is extolled.

This is Mr. Phillips's testimony, after the very acts now so much denounced, given when the whole transaction was fresh in his mind, and before the zeal of an advocate could have perverted his recollection, and this is the same Mr. Phillips who comes forward to testify before the committee that "he does not question the veracity of Mr. Dana, *only his memory*," when Mr. Dana testifies "that it was owing to the manner in which Mr. L. addressed Burns, and almost urged upon him to take time, that there was any defence at all"—and fortifies himself by an extract from his private journal entered on the day of the first hearing or the day after, and of course after the hot haste complained of, in which he says "the conduct of Judge L. has been considerate and humane, and under such a law a man if willing to execute it "could not act better in his office than Judge Loring."

Once more. The committee present Judge L. for having allowed the trail to be held and co ducted with soldiers so as to outrage the sense of the people, and they give a brief extract from a report of the trial of Burns to show that his counse protested against the presence of armed men, andl that the Commissioner ruled that the trial must proceed. Whereupon the Committee proceeed to quote Cicero, to array the terror of "dirks and pistols" on Massachusetts soil, as if it had been ordered or permitted by the United States Commissioner. If the Committee had designed to furnish the House with the whole of the same report from which they quote as to dirks and pistols, we should have found that the troops were called out by the certificate of Judge Sprague of the District Court, in concert with the Marshall, and that the Commissioner had no more control over them than the counsel themselves. The same is true of the persons employed by the Marshall, and the use of manacles which Burns' counsel did not seem to have discovered any sooner than the Commissioner. Mr. Phillips was right at the time. All this was the legitimate consequence of the passage of the Fugitive Slave Law with its barbarous enactments, and to grant a fugitive a hearing, or a trial, or counsel or delay, is undoubtedly "flying in the face of it," and at war with its infamous intent. It was the *law*, and not the *man*—that same *law* which Massachusetts for four long years had been teaching her citizens to stand by as a "finality."—It was because of Judge L.'s "common character for humanity," that he could execute it no better.

These are specimens taken from the report of the Committee by which we may judge whether we have that correct and full account of the facts attending the trial of Burns, necessary for a safe judgment, and yet these statements of the Committee occupy the larger portion of the report as to conduct and constitute the burden of the complaint. It is too true, as the Chairman of the minority report states, that the real grievance is, that Burns was sent back, and not discharged, and that if the decision had been made in favor of his freedom, that we should never have heard of this address. Indeed the printed form of petition bases the request of the petitioners upon the fact—not that the Commissioner while Judge o. Probate took jurisdiction—but that "*he sent Burns back to Slavery.*" The truth is, Sir, if we take it as we had it from Rev. Theodore Parker himself on this floor, that these petitions are all the result of an excited meeting held in this city soon after the surrender of Burns, at which Mr. Parker, as he tells us, was made a Committee of one to get up these petitions, and he discharged his duty with a good degree of thoroughness, and the new articles of faith of some former union-savers have been made to assume this form and shape, to test the sincerity of their repentance. Yet Mr Phillips in his printed speech says. because he finds some three or four different forms o. petition, that "it is very significant"—that it shows they do *not* proceed from a central Committee, which has been "organized to rouse the Commonwealth." The question of the honor of originating this movement it seems then is an open question, to be settled hereafter.

The only real question is, whether Judge Loring, being a Judge of Probate, has by acting as a Commissioner of the United States in the rendition o1 Burns, violated the Act of 1843. If he has, there may be a precedent for his removal. We have but three precedents for the exercise of this power in the whole history of our government. Two were those of Vinal and Sergeant, they having been convicted of a violation of the laws of the land, and one, Judge Bradbury, removed for mental and physical disability—palsy in mind and body. No judges have hitherto been removed for the construction honestly given by them to the laws under which they acted, and to the oaths by which they were sworn to support them. But here we have the strange anomaly of one body of men sworn to support the Constitutions of Massachusetts and the United States, undertaking to depose another officer of another branch of the government, for the honest discharge of a duty under the same oaths and obligations, and because his view of his obligations under them, in which he is supported too by the Judges of our Supreme Court, and those of the United States, differs from our own! Absolute and unlimited as this power of address is conceded to be, so in proportion is our responsibility to our own consciences. The more extreme the power, the more cautious should we be in its exercise. The whole question resolves itself into tolerance or intolerance in matters of opinion—proscription and deposition of a judge for a construction of law differing from our own.

It is confidently asserted as a legal position by the legal gentleman who opened this debate, (Mr. Swift,) that it is mere special pleading to say that Judge Loring does not come within the express terms and spirit of the act of 1843—that the third section provides that any justice of the peace, sheriff, deputy sheriff, coroner, constable, or jailer, who shall offend against the provisions of this law, or the third section of the act of Congress of 1793 respecting fugitives, shall forfeit a sum not exceeding $1000 for every such offence, and that Judge Loring was a magistrate. Then, sir, why have not these gentlemen obtained a conviction, or at least complained to the grand jury in the nine months that have expired? Then they could have brought their case within a precedent. The first section of the act of 1843 provides that no judge of any court of record of this Commonwealth and no justice of the peace shall take cognizance of a case arising under the act of 1793. But a probate court is not technically a court of record by the decision of our Supreme Court, neither has it a "clerk" so as to bring it within a recent decision as to police courts. A register is not in legal sense a clerk. A still further answer is this—that this Statute could only apply to those magistrates and Courts, that by the Act of 1793, section 3d, were empowered to issue warrants or sign certificates for the surrender of fugitive slaves, and this section was repealed by the Fugitive Act of 1850, whereby no magistrate of any town, city, or county, after its passage, *could* take jurisdiction, it being vested solely in Judges of the U. S. Courts and their commissioners. So that it is perfectly apparent, that the Act of 1843 merely prohibited the officers there named from taking cognisance of these cases in that capacity. The second section merely applies to executive officers, sheriffs, deputies, police officers; and to include a Judge of Probate in that enumeration, because the word "or other officer of this Commonwealth" follows them, is a species of special pleading that has not been known in this State for a number of years. The Act of the U. S. however, of 1850, would of itself supersede and override any application of the Statute of 1843, by which Judge Loring as Commissioner was bound. Our own Court in deciding that the Baukrupt law of th-

U. S. of its own vigor suspended our insolvent laws, intimate that any law of the United States under the power given by the Constitution, is ever *paramount* to our own laws.

If no person in 1854 would act under the law of 1843, how could it be violated in letter or spirit?

Besides, Sir, we have an admission by the very Committee that reports this address, that this law is no longer in existence. There is a printed bill which is among the earlier printed documents of the House, the first section of which, expressly extends the provisions of our Statute of 1843 to the acts of 1850 and of 1793, of the United States. Why this bill has not been reported and passed, long ago, but lain back in the hands of Committee, I cannot tell. If it had been passed the early part of the session, Judge L. would have had an opportunity to resign, but the address must be reported first.

Then the Committee refer to the Resolutions of the Massachusetts Legislature of 1850, as expressing their determination that this Act of 1850 should not be enforced. Unfortunately however for the argument, the Act of 1850 had not then been past. But there is another matter of a more serious character connected with the use the Committee have made of these resolutions. By mutilating these resolutions, and bringing parts of two into one, and omitting one entire clause, they represent the legislature as declaring that Massachusetts expects her officers and representatives to adhere at all times, and on all occasions, to the legal enactments of the act of 1843, and to the right of trial by jury. The Resolves contemplate the passage of a new law, which they say ought to secure this right. How they could expect the legal enactments of an act made in 1843 touching the act of 1793, to apply to an act *to be* passed in 1850, is somewhat difficult to imagine. But that is not the whole of it. It so happens, that the whig legislature which passed these resolves, with a dexterity which they always exhibited in passing resolutions upon the subject of slavery, introduced just before their bold declaration of their intention to follow out their principles, this patriotic resolution, which the committee forgot to quote, or for some cause crowded out:—"Resolved, that the people cherish the union with unabated attachment, that they will support the Constitution." That appreciating the inestimable benefits flowing from it, they believe it better for all parties and sections, with reference to any existing evils, to *wait and work patiently, under, and through* the Constitution rather than to destroy it. These resolutions seem to have been passed after the 7th of March speech of Mr. Webster, and they savor much more of submitting *patiently* and *working* under the new fugitive slave act, than prohibiting officers created by it, from taking cognizance of cases arising under it. Wait, wait,—work, work,—patiently, patientl, *under* and *through*, any where but over the Constitution, was the doctrine thus early taught as to the fugitive slave law to come. How idle then to pretend that the main object of these resolutions was to enforce the legal enactments of 1843. This again shows how unfit we all are, who look at a subject from a particular point of view, with old party predelictions and hostilities, to determine the facts in this case with due coolness and impartiality, and how illy qualified we are to determine, whether the highest power known to the Constitution should be exercised on this occasion.

But, Sir, however it may have been as to the sentiments of Massachusetts, at the time of the passage of the Act of 1843, or of the Resolutions of 1850, a strange and entirely different spirit came over the people after the passage of the compromise measures of that year. They were a finality, we were told, fugitive slave law and all.

I maintain that Massachsetts, through her Representatives, has no right to require a higher standard of morals by which to try Judge L. for an act done in 1854, than she herself had set up, and we as representing her, have no right to try him by a standard that now prevails, and which then was unknown. Daniel Webster, the foremost statesman of New England, and of the whole country, threw his whole influence for the support of the fugitive slave law, as necessary for the preservatien of the Union, and told us we must "conquer our prejudices." And all the people said Amen. When you are ready to write kidnapper on his tomb, then brand Judge L. with the same name. Professor Stuart, of Andover, the greatest theologian of New England, wrote a large pamphlet, entitled "conscience and the constitution," in which he gave us the fruits, as he told us, of forty years diligent study of the scriptures, and these were, that slavery was not contrary to the teachings of either the Old or New Testament. He referred us to the pious Rev. John Newton, who was not a slave owner merely, but a slave trader, and these pamphlets were distributed over the State by cart loads as whig electioneering documents. I saw piles of them in the hands of one man. President Lord, of Dartmouth college, wrote to the same effect. [Mr. Neale, of Boston, interrupted Mr. H. to ask him if he intended to saddle the Orthodox church with the notions of Prof. Stuart and Dr. Lord, as to the support of the fugitive slave law.] No, Sir, they saddled themselves. Then came forward Dr. Dewey, the leading divine of the Unitarian faith, though I am happy to say that many clergymen of his faith did not follow him, and for the sake of the Union, which then meant the support of the fugitive slave law, he was willing to send (not his mother) but his brother, into eternal slavery. Clergymen of all denominations, except yours, Sir, I am happy to say, (turning to the Speaker,) and some of the Universalists, and the Methodists, perhaps, acquiesced in the finality.

All the professions, the politicians of all grades, except the free-soil party, the leading influence of the press of the great parties, the political conventions, the Supreme Court, the Executive, the military, all lent themselves to the support of the infamous slave law, to *save the Union*. If this is ground for removal, begin with your Supreme Court from whom Judge L. received his instructions. They could have saved Sims by the protection of a writ of habeas corpus, but they declared they could not interfere against the law of the United States, and Sims, like Burns, was sent back to slavery, and the people acquiesced. Judge L. did the same thing, and he must be addressed off the bench. Wage a war of extermination upon all our citizens who have had part or lot in the matter. For myself, I say, if Massachusetts is to become a heathen god, give me Jupiter, with the goddess of nullification, like Minerva, leaping forth from his brain fully armed—rather than old Saturn devouring his own children. Mr. H. then proceeded to quote from Governor Boutwell's inaugural in 1851, from resolutions that passed the Senate the same year, and alluded to the failure of Mr. Buckingham's personal liberty bill of the same session, extending the provisions of the act of 1843 to the fugitive act of 1850, which he said, he was informed by one of the democratic leaders of the coalition, really failed, not because they considered the act of 1843 in force, as the committee state in their report, and as may have been the ostensible reason held out—but because the democratic portion were determined they would not be crowded to the wall, and with the aid of the whigs, they were able to defeat it. He also showed that in 1852, Gov. Boutwell in his message maintained a dead silence upon the subject. It has been claimed, said he, that the election of Charles Sumner to the Senate of the United States, was evidence that the State was thoroughly anti-slavery in sentiment, and this is the only testimony adduced, from the adoption of the compromise act of 1850 to the repeal of the Missouri Compromise in 1854, to show any indisposition on the part of the people to acquiesce.

But everybody knows that Charles Sumner was not elected by the anti-slavery voice, but by coalition democrats combining with free soil leaders, with the understanding that Gov. Boutwell should take the chair of State. The course of Mr. Sumner after his election shows that he felt he had no constituency to fall back upon. He maintained such silence upon the great subject which his friends had so much at

heart, that remark and enquiry were excited among his best friends, and never until the agitation of the repeal of the Missouri Compromise, did the Whig delegation in Congress from Massachusetts rally in his support. Some tender words of dalliance passed, if I mistake not, about those days, between Daniel Webster and Gov. Boutwell, and when Mr. Webste died, one loud wail went up from Massachusetts, an the whole land; and his friends and admirers here in the city of Boston, following his known prefer ences of Pierce over Gen. Scott, succeeded in getting him a plurality of votes for President,—here—wher lives the Judge of Probate whom it is proposed to remove—Franklin Pierce! the great personification embodiment, incarnation of the fugitive slave law.

And this brings us by an easy and natural transition to Caleb Cushing, who about this period was promoted by the anti-slavery sentiment of Massachusetts (was it Mr. Speaker?) to the bench of our Supreme Court, and who was afterwards promoted to sit at the right hand of Franklin Pierce, and then wrote back to his democratic friends in Massachusetts, that the anti-slavery sentiment must be crushed out in this Commonwealth.

Was it in 1853 that Gov. Clifford in his inaugural delivered his eulogy upon Daniel Webster, enforced the lessons he taught us, and expatiated upon our duties to the union, which from Whig lips then, always meant one thing—the compromise finality of 1850? Was it not in the session of the Whig Legislature of that year that Mr. Hoar introduced certain resolutions against the Fugitive Slave law of a very mild type—milk and water—as the treatment required—and is it not said they were tabled on motion of Gov. Gardner? the governor who is to be requested to sign this address—the supporter and admirer and disciple, of Daniel Webster, and who as much approved as he did the compromise measures, until after the repeal of the Missouri Compromise and the rendition of Burns.

And do you propose to put your Governor in the sad dilemma of discarding his own principles and faith, his attachments and memories for the dead—or refusing his sanction to this extreme act?

In 1854, who were the leading candidates for the Senate of the United States? Edward Everett and George Ashmun, two of the warmest friends and admirers of the intellect and principles of Daniel Webster. And Mr. Everett was elected, who when in the House of Representatives in Congress declared his readiness to shoulder his musket to put down an insurrection of slaves at the South.

Why, sir, one of the prominent candidates for Judge of the Supreme Court, when the very last vacancy was filled, was a slave commissioner, and no one ever dreamed of its being an objection. Neither had he any sympathies with the free soil party or scruples as to acting as commissioner.

The legislature of 1854, in session while the repeal of the Missouri Compromise was agitated in Congress, were silent as to the Compromise of 1850, and the repeal of the fugitive slave law. To be sure, they passed resolutions protesting against the Nebraska bill, but more because it would renew anti-slavery discussions and undo the work of 1850, than from a deep seated conviction of the iniquity of the fugitive slave law. Upon this subject or the repeal of that law as well as the creation of more slave sfates, and the abolition of slavery in the District of Columbia, they were studiously silent. The Nebraska bill was not passed till the 30th day of May, some days, nearly a week, after the seizure of Burns.—The feeling on the part of the people was, rather that they had been infamously cheated in the barter of principles that took place in 1850, than that they had gained any new light upon the constitutionality of the law. The teachings and doctrines upon that subject, and as to our duties under the Constitution, could not be annihilated by the passage of a territorial act, nor could it release Judge L. from the responsibility he had been taught he was under, to "a paramount law," yet gentlemen reason, as if Massachusetts, having taught the duty of hunting slaves, should now put herself in the attitude of a sportsman, who because his neighbors have encroached or poached upon his grounds, turns round and shoots the hounds that have pursued the game. Sir, "the true sportsman never shoots his own pointer." Try Judge Loring by the standard of the day when he acted, May 23, 1854, if he is to be tried by public opinion, and not by a public opinion created long after, and which has been made to assume this proscriptive form.

But let us see how much genuine love for anti-slavery principles really existed after the rendition of Burns. What have been the indications of popular sentiment since? The attempt to organize a Republican party upon the basis of a restoration of the Missouri Compromise signally failed. The Whig State Central Committee, one of whom was Gov. Gardner, could not advise it, because the power of recommending it had not been delegated! The Whig convention, representing the "great Whig party" of Massachusetts, refused to unite in organizing a freedom party, and then the free soil party, at one time, from twenty to tnirty thousand strong, under the dictation of their managers, with a certain doctor on this floor, leading off, slid away into the American organization. And a portion of the whig party too slid off into or up to, this same party. And this movement of the free soilers was made avowedly to punish the whigs. They abandoned for the time the great principles of their political organization, and allied themselves to a party that had not a single "anti-slavery plank in its platform," and adopted substantially the platform of the old democratic and whig parties for the salvation of the Union, and ignored the whole subject of slavery. Yet now they propose to bring the highest power known to the Constitution to bear upon Judge L. because he acted upon the same principle, and ignored the subject also, in discharging his sworn obligations to the Constitution and laws of the United States as Commissioner. Sworn, I say, for I cannot understand the distinction set up here between the office and the man, and which maintains, that though, when he had assumed the office of Judge of Probate he took an oath to support the Constitution of the United States, yet inasmuch as Commissioners are not specially sworn, he was not under obligations to regard it, acting in that capacity!

The November elections came on, and upon such a platform, the American party, eighty thousand strong, came into power. And what was their first act? To put into one of the highest offices in their gift, one whose first annunciation after taking his seat in the United States Senate was to declare, that that he had been sent there by a party that did not recognize the subject of slavery as a matter for their political action, and who wrote a letter to one Vespasian Ellis, the editor of the American organ at Washington, declaring that this new party "in *Mnssachusetts* does not embrace the question of slavery," and claiming merely the *individual* right of opinion upon this question, but also declaring that "the people of Massachusetts, do not seek *to impose their convictions and opinions upon thier fellow citizens of other States, or to proscribe them for not concurring in those convictions and opinions.*" Which means, in plain English, that though at home he would remove Judge Loring for acting as Commissioner of the United States while Judge of Probate, yet as to a friend of the fugitive slave law out of Massachusetts, he is not to be proscribed for his support of that law, but if nominated for the most responsible office in the gift of the people, by the American party, he is entitled to the support of the people of Massachusetts. What is to be the influence, pray, of a member of Congress from the North upon a question of freedom, who "does not seek to impose" his own convictions upon the subject, "upon the convictions and opinions of his fellow citizens of other States." Why, sir, this is the very doctrine of the famous Caleb Cushing "crushing" letter, for while *he* protests in the name of the President against a coalition between the democratic *party* and the free-soil *party*; he clearly implies at the close of

his epistle, that Mr. Pierce has no disposition to interfere with their individual opinions as to slavery, so long as they do not organize them into party action

But this is not all. Your new Senator, when catechised by Southern slave holding Senators (Feb. 28) again declared that the "party with which he acted" had never *expresssd any opinions*, or *assumed any position on the question of slavery.*"

Again, in answer to Mr. Bright of Louisiana, he said "I believe that if the fugitive slave act should be repealed, *Massachusetts will fulfil her constitutional obligations*, but in her own way, so as to protect fully the rights of every man within her jurisdiction." But pushed to the wall again by the same persevering Senator, who asks whether Massachusetts would capture and restore a fugitive slave to his southern owner under any circumstances, he replies, "I cannot say certainly what Massachusetts would do under any circumstances that may happen. But I will say that, *in my judgment, she would fulfil the obligations which the Constitution imposes on her.*"

"*That*," says Mr. Bright, "*is a satisfactory answer.*"

Here then we have our Senator fresh from the people, in view of all the outrages committed by restoring a slave to his master, pledging Massachusetts to do, in some other mode, the very thing for doing which Judge L. is to be removed from his office. If the thing is to be done at all, was it in principle more disreputable for Judge L. from his views of duty to do it, than it would be for your executive, while holding the office of Governor?

In the same debate, he says, I believe sincerely that the people of Massachusetts feel that the Constitution, *and all the Constitution* is binding upon them."

Furthor, this same Senator on the last day of the session was troubled with conscientious scruples about voting for the admission of Oregon as a free state into the union on the Sabbath, though he could vote for appropriations to carry on the government on that day. I had supposed that Sunday was the Lord's day—that the spirit of the Lord was peculiarly present on that day, and that "where the spirit of the Lord is, there is *liberty*," and that a vote for securing freedom to a whole territory would be eminently doing the Lord's work. I wonder sir, if in that "appropriation bill, which it was lawful to vote for on Sunday, there was an item of 10 or 12 thousand dollars for the payment of the Massachusetts troops that were called out by Mayor Smith, to aid in the rendition of Burns? Yet Mayor Smith, though he has been shown to have violated a law of the State by that act, could be re-elected here by the American party.

I know very well, that your Senator has made his explanations, and that they have been accepted, and I do not say that they were not satisfactory to the gentlemen here who elected him. I only ask that the same broad mantle of charity you are willing to spread over Mr. Wilson, you should be willing to extend to Judge Loring for his official acts if he has erred, for no one pretends that there was any thing more than error of judgment. Will the members of the American party here, who have this very session elected to their council chamber, men who avow their principles to be those of Daniel Webster on this question, and who it is well known, would have done the self same acts alleged against Judge L, so compromise their consistency as to vote this address? Are not the American party strong enough to be generous? Are they to become hypocrites to gratify the feelings and passions of men? "Massachusetts intends to fulfil her constitutional obligations" does she? And yet it is demanded of her to punish or dismiss from office, any man who conscientiously undertakes to fulfil his obligations to the Constitution!

Sir, like Pilate, you may mingle the blood of the "Galilean" Loring, with the sacrifices he has conscientiously, though erringly, made, on the altar of duty. But, think ye, honest Americans, that this Galilean was a sinner above all other Galileans? I tell ye nay. Better that we should all repent. If you wish that punishment should be visited upon Mr. L. has he not been already sufficiently punished? Was it not principally on account of his action in the Burns affair, that the Board of Overseers of Harvard Colleg refused to ratify his appointment to a Professorship in the Law School, cutting him off from the means of support, to the amount of eighteen hundred or two thousand dollars? Once before he had been refused this office because, as it was said, by a Committee of the Board, he held the office of Judge of Probate for Suffolk, and must attend court in Boston perhaps one day in a fortnight, and it would be an interference with the time of the professor. Yet this very winter, another professor in the same law school, Professor Parker, well versed in the science of law and in the laws of New Hampshire, from whence he came not many years since, has been appointed to the laborious duty of revising the statutes of Massachusetts—a work requiring two or three years constant application on the part of the professor unless it is to be done by his boys in the school. And we hear not a word of complaint as to the incompatibility of the duties of Professor Parker. So true is the old maxim, that one man may steal a horse, while another may not look over a hedge. Suppose the fugitive slave law of 1850 had contained a section providing for a trial by jury, and a juror here holding a commission of Justice of the Peace, should have found a fugitive to be a slave under it, would you refuse to renew his commission? Yet where is the distinction?

But admitting that opinions have changed since public indignation at the repeal of the Missouri compromise has been turned, to some extent, into hunting down one of our officers of justice, and diverted from open combined opposition to the encroachments of the slave power—into intolerance, instead of political action—into persecution for honest differences of opinion as to constitutional duty, instead of resistance to national injustice—suppose that your judges are to go about snuffing the popular breeze, by way of strengthening their independence and impartiality, will you demand that they shall have the power of divination? Will you cut down the fruit tree in your garden—not because it will not bow before the wind comes, but because it does not bend in advance of the storm? your Committee set up a law of public opinion—not a law of the land—which did not exist at the time of the act complained of, and propose to punish Mr. L. for violating that law before its existence. Our own Constitution, and that of the United States, and almost every Constitution of the States, expressly provides, that a man shall not be punished for an act which was not a crime, when committed—that no expost-facto law shall be passed. This was one of the great grievances which our fathers intended to guard against, so common at one time in the British Parliament—bills of attainder, and bills of pains and penalties.

It was such a bill as this, under which Wentworth, Earl of Stafford, was put to death, having been declared guilty of treason, for an act which was no treason when it was committed. "Do we not live by laws," said he, "and must we be punished by laws before they are made? Far better were it to live by no laws at all, than to put this necessity of divination upon a man, and to accuse him of the breach of a law before it be made a law at all." Law is a rule of action *prescribed*—promulgated. This is its essence. But in this case it is proposed to hang the victim first, and then make the law by which he is executed, not to hang him first and try him afterwards, but both to try and hang him first, and then create the law by which it is done, and that law too, the excited, stimulated law of public opinion. A retroactive law whether of the statute book, or of public sentiment, is in its essence unjust, and null and void. The law by which Judge L. is to be addressed off the bench is still in the hands of this Committee.

Mr. Speaker, this measure, if adopted, may prove a double-edged weapon. The American party is now strong, but it cannot always retain its power. The time may come, and that before many years, when a party opposed to their measures may send a majority to occupy these seats. And with this precedent before them, they may look about to see what judges, promoted to the bench by them, fill

judicial stations. The gentleman who opened this debate (Mr. Swift) may be found in the seat now filled by Judge Loring, and turning to our Statute Book, they may find a law prohibiting extra judicial oaths and obligations. They may consider secret political associations contrary to the genius and safety of republican institutions. They may inquire whether that gentleman reached his seat through a violation of a law of the land and of republican principles, and he may be hung, Haman-like, upon the beam he had helped raise for another. Let us take care that we furnish no precedent for measures like these hereafter.

There are strong elements of opposition forming against the present administration of affairs in Massachusetts. That portion of the people who do not believe that selling a glass of ale is an offence to be punished by imprisonment in the House of Correction is strong, active, and determined. You will have to encounter all that class who do not sympathise with the measures proposed by the American party, and who will not permit persecution or intolerance. The conservatives too, of Massachusetts, are not few or feeble, or without influence, when they can be roused to action. All the elements of opposition combined together with the disaffected at an extreme measure like this, at the very next election, may hurl the American party from power, and defeat the purposes which they have so much at heart.

But, Sir, there is another great consideration which with me weighs more than all the rest. It is not the wrong to Mr. L., great as it is. It is not that a day of political reckoning will come. It is this:

The adoption of this address is fraught with danger to the great anti-slavery cause itself. Many strong friends of that cause in all parts of the State are opposed to these extreme proceedings. Now, there is a general feeling of hostility to slavery encroachments. Even Union men are disposed to lend their aid to set up some effective barriers. But adopt this measure and you alienate a large portion whose support the cause cannot afford to lose. If the anti-slavery tree, they will say is to produce fruit like this, we will neither water its roots, or sit under its branches Massachusetts is habitually conservative. She slumbered over the wrongs of the Compromise of 1850 for four years, and shall her first act be, on waking, to put to the torture, those whom she herself put to sleep? Having prostrated herself at the foot of the slave power, shall her first act in breaking her fetters be, to use the iron shackles in beating out the brains of those whom she herself bound in her own bonds.

After endeavoring for four years to enforce obedience to the slave law, keeping dirt and ashes on the fire of anti-slavery shall her first act on raking open the smouldering embers be, to fire the dwellings of her own citizens or burn them at the stake? As well might the fugitive who has just emancipated himself from slavery strangle the children he left behind, because they did not precede him in the race for freedom. First, let her set up a standard of conduct, before she undertakes to punish her own citizens for non-conformity. Hunting down white men is no better than hunting down the black man. Beelzebub the prince of devils casting out devils is too satanic a work—such a kingdom cannot stand.—I say to Massachusetts, first cast out the beam in thine own eye, and then thou shalt see clearly to cast out the mote from thy brother's eye.

"Be not the cotton-mouthed serpent, that, irritated, strikes its venomous fangs into its own flesh."

In conclusion, Mr. Speaker, I protest against the exercise of this high prerogative, for the following reasons:—

First, because it is unprecedented in the history of Massachusetts.

Second, because it will tend to create a reaction in public sentiment, detrimental in the extreme to the cause of the slave, and to the progress of free principles.

Third, because the conduct of Massachusetts since the passage of the Fugitive Slave Act, through her Legislature, through her Judiciary, through her Executive, through her leading [illegible]es, through the press, through her pulpit [illegible]ar, with but few exceptions, has been such as to induce her officers to acquiesce in and countenance its enforcement until the repeal of the Missouri Compromise.

Fourth, because to dismiss a judicial officer for violating a law of public opinion is intolerant, and in direct violation of the spirit of the Constitution, and to dismiss him for violating a law not in existence at the time of the act complained of, would be essentially a violation of the first principles of common justice.

Fifth, because it is neither a just or necessary remedy, in order to prevent a like exercise of jurisdiction by a Massachusetts officer, in cases arising hereafter, if such should occur, and because that object may be obtained in a more direct and equitable mode.

Sixth, because Massachusetts has no right to enact or demand of her officers a higher code of morals as to the Fugitive Slave Act, than that which at the same period of time, governed her own conduct.

☞A paragraph in the Northampton Courier of last week says:—

"Mr. Huntington is reported in the Daily Advertiser to have said, "He feared to sit in this case. because the fugitive slave law is constitutional." In a speech in the town hall in this town, soon after the passage of that law, Mr. Huntington spoke in support of resolutions declaring in emphatic terms said law to be unconstitutional; and not only that, but he himself warmly denounced it as such. Why this change?"

It will be seen from the report now published, that Mr. Huntington has not changed. In the short abstracts which are made from day to day, it is our intention to be correct as to all matters of fact, and we understood Mr. Huntington as it now appears he intended to be understood, but the qualification he made was accidentally overlooked. It appears that *he* does not consider it constitutional, but he said that the Judges had pronounced it to be so.—*Reporter.*

REMOVAL OF JUDGE LORING.

SPEECH OF

Hon. G. PILLSBURY, of Hampshire,

In the Massachusetts Senate,

April 19, 1855.

Mr. PRESIDENT AND SENATORS:

This subject has been agitated so thoroughly in the numerous hearings before the Committee on Federal Relations, to which I am glad that most, if not all the members at this board were listeners, that I can hardly hope to produce conviction upon the mind of any Senator, who is not already convinced, that the offices of Slave Commissioner and Judge of Probate, are too incongruous to be administered by one and the same individual, in this Commonwealth. I am, however, consoled by the thought, that the sentiments I entertain upon this subject, do not differ from those of a large majority of the gentlemen before me. I am also cheered by the belief, that they are in harmony with the views of a very large majority of the citizens of Massachusetts.

And why should they not be? Seventy years ago, they wiped out the foul blot of Slavery from their otherwise untarnished escutcheon, and inserted in its stead the brilliant star of universal liberty. Ever since that time, there has been one prevailing sentiment among the people, and that sentiment has been, freedom forever, to every one who treads our soil. To be sure, now and then, through some political sirocco which has swept from the South, the flag of freedom has flapped, and fluttered as though it must soon be struck. And occasionally, at the beck of some Southern despot, backed up by the pro-slavery clamors of a few Northern doughfaces, it has seemed for the moment, to trail in the dust. But how soon has an outraged people rallied around it, snatched it from its degraded position, shaken from it the dust, and filth, and borne it aloft again in triumph!

The prevailing impulse of Massachusetts for a long series of years has not been a matter of conjecture. It has been a matter of certainty. You, Mr. President, and I, and Judge Loring even, knew

long before the disgraceful scene which occurred in May 1854, in which he acted so conspicuous a part, and for which he is now arraigned at the bar of an outraged community, that Massachusetts did not, and would not at all consent, that our soil should become the hunting ground for slavery. Indeed, the disgrace had been guarded against, by the plain, unmistakeable letter of statute law, with heavy penalties annexed. This law has never been revealed. It stands to-day, and did stand in May, 1854 unaltered upon the statute book, and unchanged in the hearts of the people.

It has been urged in extenuation, that in the rendition of the fugitive Burns, Judge Loring acted in accordance with constitutional law. Granted; and as a law-abiding citizen, it is not this of which I make complaint. Grant, that from the position he occupied, the fugitive slave law made it incumbent upon him to do the deed; even this does not excuse him. Others holding this same office of Commissioner, manfully resigned, rather than do this dirty work of slavery, and thereby outrage every principle of humanity, and every noble impulse of a free and generous people.

He should have done the same, and then, instead of wearing the mark of Cain, as he now does, with every humane man's hand turned against him, instead of having his name contemptuously bandied about the streets as the notorious slave hunter, he might now receive the constant plaudits of a grateful community; and wherever he appeared in public, he would be singled out from amongst the most illustrious, and honored, and his name would be repeated in silvery tones of admiration, as Edward Greely Loring, the illustrious, the revered Judge of Probate for Suffolk County. Then might the widow and orphan, with whom he has much to do, over whom his office constitutes him sole and complete arbiter, approach him with hallowed confidence and respect; and in the midst of sorrow, freely unburden all their cares, assured that he who had nobly refused to doom a poor, panting fugitive to eternal bondage, must, from his sympathizing nature and nobleness of soul, enter into all their afflictions, and judge them, too, with righteous judgment. Had he adopted this course, how different now would be the atmosphere which surrounds that bench upon which an enduring people still suffer him to sit! He has fallen, it may be in an evil hour, but that he has thus fallen, is no fault of mine, or yours. Had he at any time manifested a desire to recover from that degradation into which he voluntarily plunged himself, charity might induce us to extend the sustaining hand. But has he ever exhibited such a desire? Has ever one single contrite syllable *publicly* escaped his lips, for this ignominious act? Never, no, never. No doubt, in view of the storm of righteous indignation which constantly beats around him from every direction, he consumes the day in private regret, and ekes out the wearisome hours of night, in sullen sadness. But of what avail in this, either to him or us, so long as every *public* word by him spoken, and every line from his pen, exhibit only a bold, stubborn determination to vindicate that line of conduct, which every principle of common humanity condemns. Had he resigned his commission, rather than remand Burns to bondage, his name and his fame would have become immortal. And even after the fatal blow had been struck, had he bowed to the public will, by tendering his resignation as commissioner instead of bidding it such open defiance, I doubt whether an attempt would ever been made to remove him from the bench. It is not that he is *intellectually* disqualified to discharge the duties of the office, that we wish him removed. But it is that he is *morally* dificient. It is not that he may not have discharged the duties of a judge to the general satisfaction, that we would have him vacate his seat, but it is, that he is not only susceptible to that degree of moral obliquity, which for a moment would suffer him to descend from his high positition to the unsavory task of slave commissioner, but that he has already once yielded, and for aught we know, still holds himself ready and willing to do the same thing again and again. The duties of Judge of Probate, coupled with those of slave commissioner, may be perfectly consonant with Carolina law and Carolina Christianity even, but not with the law and Christianity of Massachusetts. No, never; and volumes of District of Columbia statutes, would forever fail to make them so. Did equal power exist in the people of this Commonwealth to remove United States Commissioners, that our Constitution vouchsafes for the removal of judges, think you that the fugitive slave law could by them be enforced upon our soil? Not in a single instance. But of this power, we do not claim to be possessed. Judge Loring knows it full well, and securely ensconced behind this inhuman Congressional enactment, he bids us open defiance, and chooses rather to trample the entire moral sense of Massachusetts in the dust, than to refuse obedience to the blood thirsty demands of the South. He scorned and still scorns the alternative, which might have released him from the odium now resting upon him. He has never stopped to enquire which of the two incompatible offices, slave commissioner and Judge of Probate, he would retain to the exclusion of the other, but holds fast to them both with presumptuous tenacity. Fortunately the alternative which he discards, is still left for us. We have the power of removal in the one case, in the other we have not the power.

If we deem the case of sufficient consequence to justify the step, let *us* not fail to adopt the alternative. Let him hold the office of United States Commissioner if he will; let him feast and fatten upon *such* honors and emoluments as it affords. Let him still hold himself in readiness to do violence to the sentiment of Massachusetts, expressed again and again, in her statute books, and sounded from every hill top across every valley. We cannot prevent it if we would; but let us not suffer him to mingle the darkness of such a tribunal with the light which beams from the Massachusetts bench. Let him not presume to dissipate the gloom with which he is enshrouded, by maintaining his position, amidst the radiant splendor which has ever surrounded our judiciary.

I have thus far conceded to Judge Loring the full benefit of the necessity, which he claims in his remonstrance, weighed so heavily upon him by virtue of his office of commissioner, to execute this inhuman law; that he must either do it, or resign; and yet, it appears, that what he construed as a *necessity*, was made a matter of *choice* under similar circumstances, by Mr. Hallet, who refused to issue a warrant against William and Ellen Crafts, and that too, so far as we know, without "detriment" to himself, or "to the Republic."

He may have acted in accordance with the duty which the Fugitive Slave Law imposed upon him, but that he "exactly complied with the official oath imposed upon him by the authority of the people of Massachusetts," I trust we shall be very slow to believe. Massachusetts guarantees to the fugitive slave a constitutional right, of trial by jury. The tenth article in our declaration of rights gives each individual the right to be protected in the enjoyment of his life, liberty and property, according to standing laws. And what are those standing laws? The twelfth article also of the constitution declares, that no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judment of his peers, or the law of the land. It goes farther, and declares the Legislature shall not make any law that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury. The fifteenth article also reiterates this same right of trial by jnry, and declares this method of procedure shall be held sacred, except in cases to which the one under consideration is an exception. The twenty-ninth article insists upon the right of every citizen, to be tried by judges, as free, impartial and independent, as the lot of humanity will admit. Could not the lot of humanity have afforded a tribunal, a little different from that, before which Anthony Burns was tried? If it had done it, the issue might have been a little different also.

Again, a statute of March 24, 1843, had it been applied, would have fined Judge Loring one thousand dollars, or shut him up for one year in the county jail, for the very identical course which he pursued in returning Burns into slavery.

Then, again, seven years after, to provide against the bare possibility, that some Judge of Probate, or other officer of the commonwealth, might arise, who should either be ignorant of the laws upon this subject, or should be too strongly wedded to despotism, to yield them obedience, the Legislature, in 1850, solemnly resolved (and that resolve was approved May 1st) "That the people of Massachusetts, in the maintenance of these, their well known and *invincible* principles, expect that all their officers and representatives will adhere to them at all times, on all occasions, and under all circumstances." Ah! Mr. President, had Massachusetts vindicated her rights, had she enforced

her own laws, with half the pertinacity which Judge Loring exercised in executing the fugitive slave law, then, while his victim, after his return to bondage, was sadly and hopelessly repining in the slave prison of the South, or writhing under the untold cruelty of the lash, he, too, might have been peering through the grates of Suffolk county jail. And yet, like a whining school boy, Judge Loring comes before this Legislature with a remonstrance, and in that remonstrance virtually declares, that it would be shocking injustice to remove him for an act performed in "exact compliance with the official oath imposed upon him by the authority of the people of Massachusetts."

I shall not deny that his oath as United States Commissioner might have allowed, and possibly compelled him to do just the deed which he accomplished. It is not of this, simply, that we make complaint. It is not simply that he enforced an infamous law, that we desire his removal from the office of Judge, but it *is*, because, in the execution of that law, he trampled under foot *our* declaration of rights, violated *our* constitution, derided *our* statutes, and wantonly outraged every generous, godlike impulse of *our* people.

I therefore respectfully submit whether Massachusetts should quietly suffer her sentiments to be thus disregarded. Has she not men who, in addition to their ample intellectual qualifications, are far *better* qualified morally to judge her widows and fatherless ones, than Judge Loring has proved himself to be? If not, then let her import them from Caffraria or Algiers. In this connection I cannot forbear giving a partial consideration to some of the reasons urged by a part of the committee why they could not sign the majority report. It was in substance that had Judge Loring decided in favor of the liberty of Burns, instead of dooming him to slavery, no objection would have been thought of against his presiding at the trial. Under other circumstances, I should be at a loss to determine whether this was designed as a contemptuous sneer at the deep throbbing humanity of Massachusetts, or whether it was intended as a reason why E. G. Loring should not be removed from the office of Judge.

Should Chief Justice Shaw descend from his high tribunal to preside at the American Board of Foreign Missions, of course this would not be considered a crime, and he would no doubt still retain his office unmolested. And more than this, it would give additional luster to his character, and strengthen the confidence of the people in his fitness to discharge the duties of his office. But should he condescend to preside at the midnight revels of the brothel, the moral sense of the community would be shocked, and his place upon the bench would at once be filled by another, whose *moral* character would be above and beyond reproach. Grant that a different decision in the case of Burns would have been universally in favor, and no objection would have been thought of against the commissioner for sitting upon that trial. The reasons are evident. Men do not complain of darkness in the full blaze of sunlight. Had Judge Loring secured to that injured, despised individual the liberty which he claimed under God and the laws of the State from which he was exiled, it would have added a bright star to his diadem, and the very act would have been regarded as additional proof of his fitness to sustain the tender, humane relations of a Judge of Probate. And as to the remainder of the reason assigned by the two dissenting members of the committee, viz., that no evidence has been offered to show that the decision was corrupt, or that as a commissioner he did not act in accordance with his own convictions of duty, I must say that in view of the overwhelming amount of testimony to the contrary, others cannot weave a mantle of charity sufficiently large to cover such a mass of deformity.

But grant that it is all true, that he did in good faith remand a fellow man back to slavery, that that the duties did not conflict with his convictions of right; still, if Massachusetts believes those convictions were erroneous, that such duties are inconsistent with the duties devolving upon a Judge of Probate, she has a right so to say, and to place men upon the bench, who will not fly in the face of her own laws, and trample her humanity in the dust, even ever so inadvertently. If Judge Loring was too stupid to appreciate the wrong, certainly he should be removed for incompetency; if he knew the evil, and yet suffered it, he should be removed for his dishonesty. In this same connection, I may be permitted to examine briefly another reason urged by the same members of the committee, why they could not unite with the majority. They admit that Massachusetts had taken decided ground on this very subject in 1843, and again in 1850, and yet, because in 1851-2 and 3 the Legislature did not see fit, or think it necessary to declare the same sentiments again, by positive enactment, why, the inference is, that Commissioner Loring was justfied in taking it for granted, that in 1854 no law, or sentiment existed, in this State against the rendition of fugitive slaves.

In what country, in what age do we live? Has it come to this, that liberty is of so little worth, that our Legislature must almost from year to year, by positive enactment, remind our Judges even, that they may not wrest it from any man, whose only crime is that he prefers to hold the title of his own liberty in his own hands? This same committee affirm that during the years after 1850, the temper of the people of the State was continually rising in its opposition to the infamous act, under which fugitives were summarily returned into slavery; and yet because in Suffolk county, this popular sentiment did not assume a character so exquisitely "unmistakable" as to give the assurance, that by sitting upon such a case, Judge Loring would not sacrifice the confidence of those that appeared in his court, why, the inference again is, that he had no good reason to decline the service. I must regard this as a stigma upon that class of community to which the allusion refers. Who are they that appear at the court over which he presides? Not the Lawrences, the Everetts, and the Winthrops, but they are widows, fresh from the tombs of their departed husbands, clad in the habiliments of mourning, the tears of sorrow still coursing down their cheeks, with their dependent offspring clinging closely to their side, and seeming as if to pray, that the stranger judge may dispense them justice with a kindly hand and sympathising heart. Now, at this trying juncture, let but a faint picture be presented before them, of the trial of Anthony Burns; the unyielding sternness of the Commissioner, the wanton wresting of every particle of evidence which might favor his right to liberty, the almost, if not quite, expressed determination to doom him to perpetual bondage, beforehand, and then, finally, the relentless, utmost extreme decision; I repeat, let but a faint picture be presented to their minds, of all these transactions, and what think you would be their feelings, when they should reflect that this same Commissioner was sitting in judgment before them also? They must tremble in his presence, and hasten to skrink from his view, were it not that it was the only tribunal of this nature before which they might appear, and they must of necessity take such measure as he is disposed to mete out to them. But I cannot admit that *this* class compose the only, nor the main portion, of Suffolk County, who might well be supposed to be hostile to such an outrage. The events of the trial, if trial it may be called, confirmed such a supposition. Judge Loring could not enter upon the case, until he had summoned to his aid, not only the entire police of this city, but the whole disposable force of the military, with their arms well charged with the elements of death; and in addition to this, the very Court House must be environed with chains. And for what purpose? To repel the uprising indignation of the people, (not of the widows and orphans,) which he strongly anticipated, and which he had the best of reasons to fear. And yet, one might suppose from the representation of the dissenting committee, that there was such a lovely state of feeling between the Judge and the people; such an unanimity as to the propriety of returning fugitives, that, instead of resisting to the very death, as was the case, the whole multitude would have hastened to stay him with flagons, and to comfort him with apples.

There is another subject which deeply agitates the minds of this conservative portion of the committee. They declare "they have no ordinary solicitude in reference to the effect upon the independence of the Judiciary, of this summary punishment of a Judge," who is so very conscientious, as Judge Loring is supposed to have been.

I desire to make no war upon the judiciary. I respect their position, so far as it tends to the administration of justice. I am willing to acknowledge their independence, so long as it is not abused, by themselves. But I am not of that class who so devoutly worship the judge as to lose sight of the man. I cannot believe his elevation

so high, so unapproachable, that his sins may not be visited like other men's, for fear of shaking his independence. And this view is in accordance with the constitution. The framers of that instrument foresaw that an exigency might possibly arise, where the bench might be so dishonored, by the disgraceful conduct of some one of its occupants, that his removal would be absolutely desirable and necessary. To be sure, this high prerogative has but rarely been exercised by the people. And let us for a moment consider what were the causes of removal in the three several instances where it has occurred. In 1803, Theophilus Bradbury was removed by the Governor, by the address of the Legislature, he being incapacitated by a shock of the palsy. In the same year, two others were removed by address, in a part of Massachusetts which now belongs to Maine. And for what reason? Why, Judge William Vinal took nine dollars extra traveling fees, in his office of justice of the peace, and Judge Paul Dudley Sargent pocketed three dollars and thirty-three cents in like manner. Here let it not be forgotten, that the two last mentioned were not removed for a misdemeanor in connection with the office of judge, but of justice of the peace; so that, if Judge Loring shall be removed from the bench, for acts done as United States Commissioner, it will not be done without precedent. Here, three judges were removed in a single year, and one of them for the comparatively insignificant offense of taking an extra fee of three dollars and thirty-three cents; and yet the world rolled on, the Commonwealth withstood the shock, and the remaining judges no doubt behaved quite as well for being released from such contaminating company. For fifty years, they honorably maintained their independence, and occupied their seats unmolested. I think the example must have been a most salutary one.

Had Richard H. Dana, Jr., Esq. lived at that time, he would, on paper at least, have annihilated every judge of them in twenty-four hours. He would, in imagination, have seen "the slumbering lion of the constitution" roused, and devouring them one by one, in awfully rapid succession. I therefore submit whether this summary punishment of three judges in the single year of 1803, did result so disastrously that this Legislature must be warned against taking a similar course in 1855.

Are not the causes sufficient? Who will presume to compare the reasons which operated for the removal of Paul Dudley Sargent, with those which are now urged, for the removal of Edward Greely Loring? The one despoiled a *County*, to the amount of three dollars and thirty-three cents, the other despoiled a *man*, to the amount of liberty forever. The one was removed, and the people said, amen. The other still retains his office, and Mr. Dana encourages his disconsolate heart, by softly suggesting that we have no "weapons" with which to "strike him down;" he therefore bids him "go in peace."

There is but one other statement made by this doubting portion of the committee, to which I will allude. And I must say that statement almost surprises me.

They close by saying that Judge Loring, whom they believe acted conscientiously, "is now adjudged, not by the sentiment that existed at the time of the act, but by the opinion that has grown up into vigorous life under the excitement of national events, which have urged, and exasperated public feeling, since the decision was made." I cannot conceive to what exciting national events they would direct our attention, as having occurred since that decision, and which would tend to operate so powerfully upon the people of Massachusetts in this particular. I believe no such events *have* occurred since the time mentioned. They all occurred previous to that time. Let us go back to 1850. In that year Daniel Webster powerfully advocated, and was mainly instrumental in the enactment of the Fugitive Slave Bill. Did this tend to quiet the excited feelings of the North upon the subject, and to pave the way for a Massachusetts Judge to act as United States Commissioner, and to entrust the fugitive back to bondage without impairing the public confidence?

What kind of immortality did the giant advocate of that bill secure to himself? Did it enhance the brilliant luster, which ever had been wont to encircle his fame, at home and abroad? I tell you nay. From that very day his doom was sealed. Massachusetts virtually disowned him; and at the same time, strange to tell, he was even deserted by the chivalrous South. He might not brave the raging storm, and in the very height of the commotion, his sun went down in darkness.

At this awful moment, what consternation seized upon the thousands of hapless beings who had escaped from the fangs of slavery, and were quietly reposing in our midst. About this time, Sims was unlawfully seized, tried and condemned, and hurried sadly and sorrowfully on his returnless way to eternal bondage. No syllable has ever been heard from that poor mortal since. These fugitives, like hunted deer, fled from us in crowds to a land of refuge. They were told they should be protected, come life or death, but in vain. They fled, and were followed with the prayers and tears of many an aching heart. Massachusetts was one continued waving sea of sympathy. Every where it was proclaimed that not another slave could be returned. The South appreciated this mighty resistance, and were very slow to make another attempt. They did hope to lay their remorseless hands upon William and Ellen Craft, but they were shielded and protected by friends, until they made good their escape to a foreign land, where they could enjoy *American* liberty on British soil.

In view of the security which the determined opposition to the slave law vouchsafed, our wanderers again returned to the homes they had so suddenly deserted, and again all was peace. In the meantime, Massachusetts again uttered her protest against the law, by electing to the United States Senate the Hon. Charles Sumner, its most able and relentless antagonist. What proof was wanting that the law was popular, even though the Legislature did not, school-boy like, re-enact the same law which was placed upon the statute book in 1843, and which, in 1850, they resolved must be adhered to at all times, on all occasions, and under all circumstances?

We now come to 1854. Did the events of that year embolden the timid, "conscientious" Judge, to discharge the "disagreeable duty?" Who can ever forget the perfect fury of excitement which agitated the entire North, at the bare mention of the Nebraska bill? Where was Judge Loring during all the excitement attendant upon its passage? I will not ask where was the honorable Senator from Norfolk? (Mr. Pierce.) Did he not enroll his name with pride, amongst those of the more than three thousand clergymen of New England, upon a remonstrance against the passage of this bill; a remonstrance too, which harmonized with almost the entire christian sentiment of Massachusetts? And did the insulting reception which that instrument met at the hands of the slave propagandists on the floor of Congress, stop the mouths of the remonstrants, and awe them into dumb submission? Did it allay the excitement caused by the passage of the Fugitive Slave Bill a few years previous? I tell you nay. It lashed this ocean of righteous indignation into new fury. In view of this monstrous aggression of the slave power, were not the people filled with terror, and did they not anew, swear eternal opposition to the Fugitive bill in particular? Even the last stronghold of slavery in Massachusetts surrendered now, for Mr. Dana himself declares, that "the public sentiment of State street, and Beacon street did not demand the rendition of Burns. It would have been better pleased with his release." And where, let me ask again, was Judge Loring during all this commotion? I fear this question would be answered too truthfully, by saying that he was crouched at the very footstool of Judge Curtis.

Is it not evident that he consulted this unscrupulous oracle, other than read public sentiment from the great book everywhere spread open before him? No, Mr. President. The "national events which have urged and exasperated public feeling," all transpired *before* that "decision was made." Even if we must suppose Commissioner Loring ignorant of the will of Massachusetts upon this subject, as expressed again and again upon her statute books, we cannot see how he could mistake public sentiment, as the storm of public indignation rose higher and higher at every successive encroachment of the slave power. The idiot may be ignorant of the laws which generate the storm, but he *does* see the lightning, and hear the thunder, and manifests an instinctive dread of the mighty elements. But I will not believe *he* was ignorant either of the law or the public sentiment. He defied them both. He took his alternative; shall we not be men, and take ours also?

Much stress is laid upon the manner in which Judge Loring conducted that sadly eventful trial. To me this is of comparatively trifling consequence. If I am to be murdered outright, I care not how few gentle and graceful flourishes my assassin makes with the fatal poigniard before it enters my flesh; and if my agonies, as it slowly and *tenderly* penetrates to my heart, should by chance wring a

tear or two from his glaring eyes, I would, did the powers of nature permit it, thunder in his ears, they are crocodile tears. And as the tide of my slowly ebbed away, did he condescend to fan me with breezes, I would still with my dying breath, exclaim, murderer, that he is after all. I would, for humanity's sake, that the circumstances might warrant us in discarding the testimony of Ellis, Phillips, and others, even though given under the solemnities of an oath, and to place implicit confidence in the evidence given in the defence. But there is such an incongruity between the course which Mr. Dana himself pursued on that occasion, and the statements he has recently made, in evidence for the defence, that I will not attempt an explanation. If Mr. Dana himself has satisfied you in his five hours, of fidgety special pleading, before the committee, I need not undertake to disabuse your minds; for he must have brought you through mases so intricate, that no one but a lawyer of equal ability with himself, could hope to transport you back again with safety. What are the facts in the case?

Go back in imagination to the events of that trial. There sat the judge with his "terrified, stupified, intimidated" victim before him, handcuffed, pinned fast to the spot by two police men, one on either side. The farce was progressing. Judge Loring was buisy in noting down the evidence with as much apparent indifference as would note down the viands of his sumptuous meal.

Mr. Dana happened to hear in the street that such an outrage was being committed in the court room, and hastened to the spot. On entering the room, and becoming acquainted with the facts in the case, he felt impelled to go to the *conscientious* commissioner in person. He informed him that his prisoner was in a fearful and helpless condition, that he was in no state of mind to judge whether he would or could have any defence, and urged him to call him to him, and to address him more confidentially upon the subject.

Alas that a judge should need such new light to be shed upon him with reference to the condition of a prisoner, whose right to liberty was the issue! Nevertheless, on receiving that light he promised to do as he was requested.

But it was a promise made only to be broken, for he still suffered the trial to proceed. The claimant's counsel read and put in the record, and the infamous Brent testified as to the identity of Burns. The Commissioner continued to note the evidence, which he seemed determined should seal his doom beyond reprieve.

Where now was his promise? Mr. Dana, true to his former impulses (alas! if the "fine gold has become dim,") rallied in his strength. He hastened to confer with Mr. Phillips, then with Mr Parker, then with Mr. Ellis and others, and then ventured to arise and address the court. His very locks shook with indignation. It was a bold movement He had no more right to do it than the humblest man in the room. The exigencies of the case led him to break through all formality. He, in his own words before the committee, "urged the matter with all his force, and felt bound so to do." And no wonder.

It was a glorious deed, and may heaven reward him for that act, above all others of his eventful career. Mr. Ellis also arose and addressed the Court in a similar manner, protesting against such a trial. What if, after all this, the Judge did a little relent, and call Burns to his side, and even address him in a "tone of kindness?" The veriest dog will crouch under severe chastisement, but will remain the dog still. And how does this cringing, servile character comport with the heroic, with which, according to Mr. Dana, he was clothed, but a few moments after. In reply to some base whisperings of the United States Marshall, he is made to say "rather severely, I can't help that, sir, he shall have the proper time" for a defence? Perhaps it was this waxing boldness, that led Mr. Dana to write, in his records of events —"the conduct of Judge Loring has been considerate and humane."

I will not pursue the chain of circumstances farther in detail, connected with this transaction. You are probably acquainted with the facts, from the base beginning to the bitter end. I cannot, however, refrain from alluding to the opinion which Mr. Dana himself then entertained, and still entertains, with reference to the decision of Judge Loring, in that noted trial; also to some traits of character which he attributes to him, traits too, which would seem a more appropriate appendage to a despot than to a Judge of Probate in Massachusetts.

think the decided preponderance of opinion at the bar is against his decision." Again he speaks of being "under the excitement, the distress, the mortification of an adverse result, a decision which I thought wrong, both on the law and on the facts."

Again, "Judge Loring needed not, and ought not, perhaps, to have heard the claimant's case before calling up Burns." * * * He says further, "Indeed, I will frankly say, that if Judge Loring had addressed him as all other Judges address prisoners, across the bar, if he had not called him to him, and in a manner and tone at once *kind*, and *assuring* almost *urged* a defence upon him, if he had not caught at a slight intimation of assent, I do not believe there would have been a defence at all."

Now, when we consider that even this little shred of humanity was not voluntary on the part of the commissioner, but was actually whipped out of him, by the repeated flagellations of both Mr. Dana and Mr. Ellis, what is this, but an admission that had not the friends of Burns accidentally entered the court room and dared to bolt beyond the bounds of legal propriety, by protesting in open court against the conduct of the presiding officer, this wretched, poor defenceless victim, would have been forever doomed, in a single hour from that time?

I quote further from Mr. Dana. "Judge Loring decided wrong; not from any corrupt motive, but from causes partly psychological, and partly accidental. This was a case admitting of, and to some extent requiring new applications or developments of fundamental principles, and Judge Loring has none of those strong instincts in favor of justice and humanity, which, followed by judges at intervals in leading cases, have gradually changed the jurisprudence of England from a system of tyranny to a system of liberty." I am confident Massachusetts would be better pleased with judges of character differing from that of Judge Loring, whose strong instincts would favor liberty rather than tyranny; with men who are morally qualified to be governed by law and facts rather than by psychology and accident.

Once more. Mr. Dana says "he was a man to receive the opinions, and to be much governed by the influences about him. He did not bring to the cause the high instincts of liberty and justice, the original power, the independence, which the cause required. The decision was the result of this. This is all that can be said about it." I think this is enough. If all the judges are composed of such materials, I do not wonder at Mr. Dana's solicitude for the independence of the judiciary.

I have thus far spoken of the causes which have been suggested to my own mind, urging this removal from office. I have not labored to prove incompetency on the part of Judge Loring, to discharge the duties of the office from which we seek to remove him, but I must confess there are so many objectionable points everywhere protruding, that it would not be difficult to make out a case in this regard alone. Besides, the competency of a judge, strictly speaking, does not consist merely of extreme flippancy in codes and practices. The greatest lawyers, popularly speaking, sometimes make the smallest judges, just as the noisiest stream discharges the least water. Neither does a good judge require wonderful originating faculties, a tact of drawing new and unheard of conclusions from plain and simple facts. The very term of judge, implies something more, and entirely different. Webster defines a judge to be "one who has skill to decide on the merits of a question, or on the value of any thing—one who can discern truth and propriety;" and technically to judge, he defines, "to hear and determine," I suppose according to law and evidence.

According to this standard, I respectfully submit, whether Judge Loring is competent to discharge his duties in any important sense, whether legally, intellectually, or morally. Mr. Dana, in his defence, probably gave his illustrious protege the very best character he can possibly bear, which is in amount that he is very kind and considerate, but deficient in the unimportant matters of law, justice, and humanity.

Now, if for the reasons to which I have alluded, or for other causes which may have escaped my attention, you may desire Judge Loring's removal, you have only to say so, and it is done. Indeed, I might go farther, and say, if you desire his removal, the Constitution gives you the right, and

points out the method to remove him, without specifying any single reason whatever. But I have no fears that this or any other Legislature will desire to avail themselves of this extreme provision. The very able Convention of 1820, for the amending of the Constitution, had this very provision under thorough examination, and while they acknowledged, to a man, its sweeping construction, they did not even suggest its abandonment.

They only recommended a modification, that the Governor and Council might not remove a judge by the address of a bare majority of the Legisture, but only by a two thirds vote. They would clothe the judge with full power to trample on the rights, and outrage the common sense of a *majority* with impunity. But if two thirds should assert the right to be released from such an incubus, why, the other third should consent to it. This proposition was rejected by the people. They took a common sense view of the matter. They considered that one man, even though a judge, might be quite as likely to err, as a majority of the Legislature; and while they yielded the right of independence to the judges, so long as they ruled well, they still claimed a majority right, to remove them, if they should become offensive for any cause whatsoever.

And now in conclusion, let me say, the matter at issue, though very grave, is nevertheless extremely simple. If E. G. Loring is not the man you desire should occupy the bench of probate, you have only to suffer your votes to correspond to your desire. Nothing can be easier. I do not urge that this step should be taken, without good and sufficient cause. I claim that such cause does exist. It is neither the will nor the law of Massachusetts that fugitives should be returned to bondage. They are both in open, and expressed hostility to it. Judge Loring has once transgressed, and holds himself in readiness to do it again. We cannot prevent it, if he *will*. We cannot say who shall be our slave commissioners, but we can say who shall not be our judges. Thank God this boon is left us. If we do not think it meet that the widow and fatherless be judged by one who can decide the momentous question of liberty "against us on the law and the facts," let us say so. If we do not wish the bench disgraced by a man who can be swayed from the line of duty, by "psychological" and "accidental causes," let us remove him. If we hold that judicial power sould not be exercised by him, who has none of those strong instincts in favor of justtice and humanity which tend to remove tyranny, and to foster liberty, let us not fear to say that word. If we are not *particular* that our dispensers of justice should hold the "opinions of Judge Curtis in the highest respect," so far as concerns the rendition of slaves, let us gratify our whims by excusing this slave commissioner from the office over which we have the control. If we would rid the Judiciary of fawning, supple tools of the slave power, who, when sitting in judgment upon the right of an innocent, defenseless man to liberty, cannot afford to exercise even a semblance of humanity, unless actually scourged into it by meddling interlopers at his court, let us grant perpetual "leave of absence" from the Probate Court to Edward Greeley Loring. If, as Mr. Dana says, Massachusetts is not right upon the record, how can we make a better beginning? How can we more effectually rebuke the Suttles of the South, and keep their slave catching blood hounds at respectful distance? Tell me not of injustice. Anthony Burns best knows the full import of that term. Let that be the burden of *his* song, not of Mr. Dana's or yours. If our soil must still be the theater of such fiendish pranks, as slave catchers are wont to play; if Judges may descend from their lofty positions and join the clan, without annoyance, without rebuke, then let me pray, in no unmeaning mockery, but with truth and soberness, "God save the Commonwealth of Massachusetts!"

Mr. HALL of Plymouth called for the consideration of Report of Committee on Federal Relations in relation to the removal of Judge Loring.

Mr. H. said he approached this subject with great reluctance, but from a sense of duty. He argued for Judge L.'s removal on the ground that he had been stricken by a moral paralysis, and said he should move to an amendment to the address, which in substance declares that his course in the trial of Burns was opposed to the sentiment and will of the people; that he did not furnish counsel for the prisoner; that he permitted the testimony of 1 witness to offset that of 6; that he showed in his judgments instincts in favor of slavery rather than freedom.

Mr. H. developed these points in an eloquent and argumentative speech, in which he dwelt, among other things, on the undue haste he had shown, and on the spirit displayed. He would have the law administered, but administered in the spirit of freedom. The plea that the Judge was conscientious, was of no avail, for if his conscience was not enlightened, he was responsible for it.

Mr. H. proceeded to consider the plea that this removal would trench on the independence of the judiciary. He argued that the office of Judge of Probate was not, in its nature, like that of other Judges; and that the removal of such an officer would not have a vital bearing on them. This plea should therefore have little weight. He considered that Judge Loring had sacrificed "the independence of the judiciary" by allowing Boston and Washington influences to sway his judgment.

If there was any truth in the plea that public sentiment was with Judge L. in his decision, why was there need of the soldiery who were called out? Mr. H. here spoke of the universal cry of sorrow and execration at the rendition, and of his recollection of the excitement in that afternoon when the tones of the tolling bell rolled over old Plymouth Rock announcing the event.

The Speaker proceeded to say that we acted for posterity, our children would regard the fugitive slave act as we regard the slave trade.

Mr. H. concluded by again charging Edward Greely Loring with having offended the conscience of Massachusetts, and that therefore he should be removed.

The amendment to the address alluded to above, was then offered, and after being read, was ordered to be printed.

The question being on the adoption of the amendment, Mr. WHITE of Norfolk opposed it, on the ground that reasons for the removal were not stated in that amendment.

On motion of Mr. WRIGHT of Suffolk, the rules were suspended, so that the vote assigning one o'clock to morrow as the hour of taking the vote on the address, might be reconsidered.

The reconsideration prevailed, and Friday at 1 o'clock, was specially assigned as the hour of taking the vote on the address. The further discussion of the address was especially assigned for tomorrow at 1 o'clock.

The further consideration of the amendment was indefinitely postponed.

Evening Telegraph.

BOSTON, WEDNESDAY, APRIL 25.

The special assignment was called for, it being the report of Committee on Federal Relations in the case of Jude Loring.

Mr. LIBBY of Suffolk, said he was an abolitionist, and opposed to the fugitive slave law; but thought if we should trace the streams that flowed together to form this movement back to their source, we should find the fountains from which they sprung, were impure fountains. The scope of his remarks was, that his sympathies were averse to the report and amendment.

Mr. WRIGHT of Suffolk had not been able to make that preparation on the subject he could wish. He argued against the removal on the ground that Judge Loring only executed a *law* of the land; and that Massachusetts had countenanced that law.

Mr. HALL of Plymouth, in reply to the Senator from Suffolk, argued that we proceeded against the Judge not because he executed the law, but because he *so* executed the law as to oppose the true spirit of liberty and to outrage the conscience of Massachusetts.

[Mr. ALBEE of Middlesex, was speaking when our report closed.]

HOUSE

[By the *Telegraph* Reporters.]

THURSDAY, April 26.

At 1 o'clock the special assignment was called for, and the question before the Senate was dismissed without an action being taken on the amendment, and the question of Judge Loring's removal came up for discussion.

Mr. MAINE of Suffolk, said that a little less than a year ago this act was committed, and instead of its remembrance dying out, it had been gathering strength. The first step in the transaction was a *lie*, as Burns was arrested in the street on a false charge. There is but one section of country in the whole world that does not condemn the transaction.

The speaker said he should not discuss the matter of the fugitive slave law, but simply the manner in which Judge L. executed it. He charged Judge L. with not being the independent judge which he might have been and which he ought to have been. The judge and marshal and all others concerned in that transaction, did not act independent. A Boston truckman was the governor and constable in all that trial. If he had said that the judge should enter the court by a ladder, he had no doubt it would have been done. He said that though he had for years been permitted to enter that court house, he was told that he could not enter at this time, without a permit from Mr. Peter Dunbar. And leave was refused him by Mr. D., while any man who was from the South could readily enter.

In this trial justice sat with the scales in her eyes rather than in her hand. He stated that Hon. Mr. Elliot, M. C., was refused admission to the Court unless he obtained a pass from Peter Dunbar, and when his earnest expostulations brought Mr. D. down from the Court-room, Mr. E. was admitted on the ground that, if not, when he went back to Washington he would make trouble.

After further allusion to the spirit that controlled the trial, Mr. M. passed to consider the conduct of Mr. Dana, and the surprising contrast between his argument on Burns and his plea for Judge Loring. He was convinced if he joined the great American circus he would make his fortune, for he had beat the world at "ground and lofty tumbling."

Mr. M- proceeded to consider the charge that those who would not execute the fugitive slave law were traitors. If a man came to him hungry he would feed him, and he would not be used as a bloodhound to hunt him down

It was the wish of the people of this State that the Judge should be removed. The number of petitioners for it was 12,000; but the number who wished it was legions. He had no doubt that this trial would eventually have an influence in doing away with slavery. He saw before him a long and golden evening stretching toward the setting sun.

He considered that the pepole wished that Judge Loring should not hold both the office of Judge of Probate and that of United States Commissioner; and before he closed his remarks he would present an amendment to the address, so that it should pray the Governor to remove him if he did not within five days after due notice, resign his office of Commissioner.

Mr. WHITE of Norfolk, suggested a difficulty, that supposing Judge L. did resign, what would prevent his being appointed Commissioner again after this matter had blown over.

At this point the Senate adjourned to meet again at 3 o'clock this afternoon.

HOUSE

Evening Telegraph.

BOSTON, FRIDAY, APRIL 27.

Removal of Judge Loring.

The Senate, at one o'clock to-day concurred in the Address of Removal, by a vote of *twenty-seven* to *eleven*. Mr. Benchley, the Presiding officer, did not vote, but we understand will have his name recorded in the affirmative. One Senator only was absent.

The majority in the Senate is larger than we anticipated, larger even, in proportion, than the majority in the House, which has been supposed to be more radical on anti-slavery subjects than the Senate. The truth is, however, that from the moment the subject began to be discussed, the justice and necessity of the measure have become more and more apparent.

We have only time to-day to express our satisfaction with the action of the Senate. The matter is now in the hands of the Governor and Council, and we cannot doubt that they will respond to the wishes of the people and the manifest demands of the public welfare.

We give the yeas and nays on Mr. Maine's amendment, and on the passage of the Address:

YEAS—Messrs. Barker, Carpenter, Denny, Hawkes, Libby, Maine, Richmond, Stedman, Tenny, Underwood, Wright—11.

NAYS—Messrs. Alba, Andrews, Baker, Batchelder, Baxter, Black, Buttrick, Cook, Dawley, DeWitt, Evans, Fisher, Fletcher, Hall, Hitchcock, Huse, Palmer, Pierce, Pillsbury, Raymond, Robinson, Sellew, Vincent, Ward, Warren, White—26.

ABSENT—Messrs. Hildreth, Lucas.

On adopting the Address:

YEAS—Messrs. Albee, Andrews, Baker, Batchelder, Baxter, Black, Buttrick, Cook, Dawley, DeWitt, Evans, Fisher, Fletcher, Hall, Hawkes, Hildreth, Hitchcock, Huse, Maine, Palmer, Pillsbury, Richmond, Robinson, Sellew, Vincent, Ward, White—27.

NAYS—Messrs. Barker, Carpenter, Denny, Libby, Pierce, Raymond, Stedman, Tenny, Underwood, Warren, Wright—11.

ABSENT—Mr. Lucas.

Case of Judge Loring. The report on the case of Judge Loring was taken up at 11 o'clock, and Mr. ALBEE, chairman of the Committee on Federal Relations proceeded to speak on the subject.

Mr. ALBEE said that Mr. Pierce had characterised this as a summary process, and also that the majority of the committee had made charges against Judge L. He believed that Mr. Loring's *heart* was on the side of justice and freedom. Let us see how the case stands: Judge L. did have an opportunity to be heard; he did send in a carefully prepared argument in the shape of a remonstrance. Every facility was afforded to those who opposed the removal, even to granting a re-hearing on Mr. Dana's suggestion.

Mr. A. then urged strongly that the Constitution grants the Legislature power to remove Judge L. by address without giving a reason for doing so, and he quoted from the debates of the Constitutional Convention to show that the most distinguished jurists and statesmen in that Convention so understood and interpreted the Constitution. There could be no question on this point. Nevertheless the Committee had done all it could to grant a hearing and consider reasons in this case. If any man ever had an opportunity to have a hearing, Judge Loring had had an opportunity in this case.

He then reviewed Judge Loring's course of proceedure in the Burns case, saying it had appeared to the committee that he undertook the case voluntarily; that he at first showed a disposition to hurry; that he prejudged it, that he allowed the court room to be filled with armed men, and he showed a disposition to favor the slaveholder. It was not true, as had been alleged, that the majority of the committee had brought formal charges against Loring. They proposed to re-

move him because he had offended against the conscience of the people, and did not seem a fit man to be a Judge of Probate.

The Legislature should take and keep this ground, and should not depart from it to take any such ground as had been proposed by those who wish to make a formal statement of reasons. He regarded Mr. MAINE's amendment as particularly objectionable.

Was it expedient to exercise this power of removal by address in this case? It was, in his view, for several reasons.

1. Judge Loring has no vested right to the office of Judge of Probate. The office was not created for him but for the people, who had a right to demand his removal when they did not wish him to occupy it.

2. Although Judge L. has not formally violated statute law; yet he has offended against the sentiments to which all laws owe their sacredness, and which sometimes makes it better to obey God rather than man, as in the case of Daniel of old.

3. His conduct in the Burns case was an offense and a treason to the great ideas which led our fathers to affirm the "inalienable rights of man"—ideas which are embodied in the Declaration of Independence and in our Bill of Rights, and which are affirmed always by that spirit which is yet felt hovering around old Faneuil Hall. The National Constitution was drafted with a view to this doctrine of liberty; for instance, it secures the right of trial by jury in all cases where the amounts involved is twenty dollars; and no vote of Congress can set aside this.

4. He reminded Senators that they had by a unanimous vote declared the fugitive slave law unconstitutional, and that to be consistent they must vote on this case in accordance with this delaration. What Judge L. had done he would do again, for he holds that the infamous fugitive slave law is constitutional. He drew an analogy between the fugitive slave act and the stamp act, which our fathers resisted so sturdily, and insisted that the former was much the most atrocious of the two. Our fathers met tyranny with acts that showed what they meant. They did not say to the stamp officers "your business is wrong; it is unconstitutional; but if you do not sell them worse men will do so, and the stamp act must be executed; we have no statute law against it." No! they did not take this course. They made the business of selling stamps so uncomfortable that the stamp officers could not pursue their business in Boston.

But Massachusetts has not been silent in regard to this matter of hunting down freedom. She spoke out on the subject years ago, and the sentiments of her people could not easily be mistaken by any man who wished to know what they are.

Mr. A. replied to the allegation that he had quoted the legislative resolves incorrectly and showed conclusively that the allegation was entirely unjust, and that he had truly given the sense of the resolves in question. Therefore the old parties had, more or less, restrained the great surge of opinion in the people; but now they are broken down, and the people in their own mates demand to be heard. They see the slave power embodied in Edward Greeley Loring more than in any other man for whose official position they are in any way responsible, and they demand his removal.

He noticed what had been said by the *Atlas* of the judiciary. At first the *Atlas* had held that the judiciary should be held apart from and above the people towering alone like Mont Blanc in cold and unapproachable magnificence; but after the Burns riot cases were decided, the *Atlas* came out and said the judiciary would be compelled "to return to humanity and justice." Why "return" if the judiciary had not gone away from justice and humanity? In saying this, that paper had conceded the whole question in regard to the judiciary.

Mr. ALBEE then referred to scenes witnessed in the Court House during the Burns trial. He had himself seen citizens of Massachusetts pitched headlong from the court house, while perfumed and bewhiskered dandies were readily admitted as "gentlemen from the South." The slave power was enthroned there, surrounded by a body-guard of ruffians, demanding the submission and reverence of our citizens.

In conclusion, he called attention to two points which he wished to have carefully considered. 1st That Judge Loring was not the proper person to hold the office of Judge of Probate. The public feeling in regard to his conduct forbade his holding the office; and, besides, there were many colored persons in this district, who had probate business and he was not the proper man to do their business.

2. A refusal to vote this removal of Judge Loring would lead to a movement which would result in providing in the constitution that the whole judiciary of the State shall be elected by the people.

When Mr. Albee had concluded his speech, the question was taken on the amendment proposed by Mr. MAINE, by yeas and nays, and it was rejected; yeas 11, nays 26.

The question was then taken by yeas and nays on concurring with the House in adopting the address for Judge Loring's removal with the following result: yeas 27, nays 11.

DAILY ADVERTISER.

BOSTON:

FRIDAY MORNING, APRIL 27, 1855.

For telegraphic and other late intelligence, see first page.

PROPOSED REMOVAL OF JUDGE LORING.—The hour of eleven o'clock on this day, Friday, the twenty-seventh of April, in this year of grace one thousand eight hundred and fifty-five, is the time appointed in the Senate of the Commonwealth of Massachusetts for taking the question on the Address which has been adopted by the House, requesting His Excellency the Governor, with the advice of his Council, to remove Edward Greely Loring from his office as Judge of Probate for the County of Suffolk. The day should be regarded as an occasion of extraordinary solemnity. The question is one of a peculiar nature; one which has rarely occurred hitherto, and we trust may be settled this day in a way that will prevent a recurrence of such another. This will be the case if the Senate refuses to pass the Address. If, on the other hand, they concur with the House, and if the Governor complies with the request of the Address, we may look in the course of a few years, to see the removal of judges for no fault, as common and natural an occurence as the change of collectors and postmasters with every change of the national administration.

In a matter so important as a serious proposition for the removal of a judge by address, one would suppose that the cause necessitating the extreme measure of the exercise of power on the part of the legislature, would be so certain and obvious, that it might be distinctly defined in plain language by anybody. This, however, is not the case with the reasons upon which Judge Loring's removal is demanded—or rather, we should say, that the ground of complaint which really (although perhaps unconsciously) influences the minds of the advocates of the removal, is a reason so entirely improper that it would only need to be stated in plain language to make its futility apparent.

On this account those who advocate the removal, if they attempt to assign any reason in support of the measure, must either avow a reason wholly insufficient, or else seek to conceal their real motive in a cloud of words; and on this account, also, scarcely any two of the prominent advocates of the removal agree in their statement of the reasons. We shall give a single illustration of each of these points.

The Boston correspondent of the Rutland (Vermont) Herald, who acknowledges that "it is very difficult to be consistent upon many questions, and this seems one of the class," gives it as his opinion that "perhaps the best reason for Judge Loring's removal is to be found in the fact that he held several other offices, while that of Judge of Probate alone is as much as one man can do justice to." This assignment of a reason is almost ludicrous. The office of Judge of Probate alone notoriously does *not* afford full employment of the time of one man. The highest salary paid to any Judge of Probate in Massachusetts is that in Suffolk County, nine hundred dollars; and we doubt, even in Vermont, where the Rutland Herald is printed, much less in Boston, whether nine hundred dollars pays for the entire services during a whole year of a gentleman fit to hold such an office. Besides, suppose Judge Loring held too many offices in June last; the Overseers of Harvard College have already relieved him of one; and surely the anti-slavery agitators do not expect that he will have next year such constant employment in hearing fugitive slave cases that he cannot attend to the business of the Probate Court. So much for a specimen of an obviously insufficient reason for the removal, urged in default of a willingness to confess the real want of any good reason.

We printed yesterday the somewhat stilted and prolix statement of reasons proposed by Senator Hall to be inserted in the Address. We observe that the Evening Telegraph, the journal which most zealously supports the cause of the advocates of removal, opposes this amendment distinctly on the ground that it is best for their side not to show their case openly, as many members might be willing to vote for the removal who would not agree to this, or any other, particular statement of reasons. The gist of Senator Hall's document is found in this sentence: that Judge Loring as U. S. Commissioner, conducted the Burns case "in direct contravention of the known sentiments and will of the people of this Commonwealth." This, we say, is the gist of the four or five hundred words in which is covered up the notion which, if distinctly expressed, would be abhorrent to all good sense and sound principles—the notion that judges are to be governed by public opinion—the "sentiments and will of the people"—and must drift with the ever varying tide of popular feeling, instead of shaping their course with reference to the well-established landmarks of law, and order, and right, and justice.

The desire to see Judge Loring removed is a matter of feeling and not of reason. Reason cannot justify it; passion demands it. It is on this account that we see two such zealous and prominent opponents of slavery as Wendell Phillips and Richard H. Dana, Jr., standing on opposite sides on this question. The former carried away by warm and generous emotions pours out his fervid eloquence in advocacy of the removal. The latter, no less sincere in his hatred of slavery and of the fugitive slave law, yet has a judicial mind, and makes his direct and logical argument against so arbitrary and dangerous a measure. To descend a little further into details, the same thing appears in the totally different interpretations which these two men give to Judge Loring's conduct of the Burns case. The former would sacrifice the judge to the man, and accordingly finds Judge Loring harsh and cruel in his conduct of the case; the latter knows that a public officer, in the discharge of duties imposed by law, must prefer justice to abstract benevolence, and is able to see that in Judge Loring's hands, justice was tempered with all the mercy that was possible without losing its character as justice.

Now we need not say that a public question of this kind which affects the permanence of our institutions, ought to be decided in accordance with reason and not by the feelings. This is no occasion for the gratification of prejudices, but one calling for the exercise of the greatest care lest a Wrong be done under the guise of a pretended Right.

This day's vote will show whether the members now holding seats in the Senate have a proper sense of the nature of the province of that body, to restrain the extravagances of the lower branch of the legislature—more numerous in numbers and thus more easily swayed by appeals to the feelings. We look to the Senators to-day to prove that their branch is not a useless feature in our system of government. It is created not simply to ratify, but to review, the doings of the other branch; and if on a careful review any measure is found ill-considered, and unwise, as we think is the case in this instance, the Senate must refuse its assent.

The American party in Massachusetts has lately found that, powerful as it was proved to be at the last election, its excesses and extravagances cannot be approved by the people. It is in great danger of losing all its influence by its abuse of power. The party cannot stand before the people under the odium of an assault on the independence of the judiciary. Their attack upon the judiciary was a main cause in the downfall of the reformers of the Convention of 1853. If we were actuated (as has been alleged) in our expressions of opinion by a desire to injure the American party, we should not say a word in endeavor to prevent the removal of Judge Loring.

But we are animated by higher considerations. We look to the credit of our State at home and abroad; look to the permanent influence upon our free institutions; and we sincerely hope that to-day's vote in the Senate will effectually defeat this abominable proposition.

DAILY ADVERTISER.

BOSTON:

SATURDAY MORNING, APRIL 28, 1855.

Removal of Judge Loring.—Yesterday was a dark day for Massachusetts. The Senate, the branch of the legislature to which we looked for a rebuke of the fanaticism which has pervaded the more numerous House, proves to have been itself quite as badly infected with the mania. The address for the removal of Judge Loring was passed by a vote of twenty-eight yeas (including the President) to eleven nays—one Senator being absent. In the House, it will be recollected that the vote stood, two hundred and four yeas to one hundred and eleven nays, the number of absentees being sixty-one. The two houses accordingly concur in this arbitrary exercise of power by a vote of nearly two to one. The address assigns no reason for the removal. Its framers could not venture to insert even the briefest statement of reasons; for, as we remarked yesterday, scarcely any two of the prominent advocates of the removal agree in placing the necessity or expediency of the measure upon the same grounds.

The concurrent sanction of this arbitrary proceeding by such large majorities in the two houses of the legislature, in which by the theory of our government is collected a fair representation of the sound wisdom, sober sense, and strict honesty of the intelligent people of Massachusetts, suggests so many grave reflections, that we are at loss in which lights we should first present it to our readers. The personal view is the one least important and least interesting to the public; and yet we doubt not that many votes in favor of the removal were prompted (perhaps unconsciously) by a personal prejudice against Judge Loring caused by the continued reiteration of abuse and fomentation of jealousy against the members of a family with which he happens to have an indirect and peculiar relation. There is no personal prejudice against him individually. The genial kindness of his temperament, makes every man who meets him, his friend; and would disarm the most rancorous hostility of his enemies should they happen to meet him face to face in social intercourse.

Judge Loring moreover has a right to feel the proud consciousness of having done his duty—a consciousness which it is possible that our present legislators may not know is worth a hundred offices even if they were salaried at nine thousand instead of nine hundred dollars a year. He may also know that the verdict against him which has been rendered in this unaccustomed tribunal is already reversed in the minds of unprejudiced men everywhere, and will be reversed even here by posterity;—and that although the State of Massachusetts now chooses to rebuke her judges for harkening to the dictates of law and order and right and justice and reason in defiance of consequences, and with no regard to what may be the popular sentiment of the moment; yet that whenever and wherever free institutions and an independent judiciary are prized, such censure becomes his highest praise.

As the personal view of the proceeding is less important than the general view, so also its immediate consequences are insignificant in comparison with what are likely to be its permanent effects; yet we fear the immediate consequences are not likely to be of benefit to the Commonwealth. We are unable to state, or even to conjecture, of the numerous true Know Nothings whose longing eyes we dare say are already fixed on the expected fatness of nine hundred dollars a year, who will be the fortunate one to receive the post at the hands of Governor Gardner. But we do know that in losing the services of Edward G. Loring as Judge of Probate, the County of Suffolk and the Commonwealth of Massachusetts lose an officer peculiarly qualified for the delicate and responsible duties of the seat which he has for eight years filled with honor to himself and satisfaction to the community.—In all the asperity of the recent attacks upon him, in all the torturing of circumstances to appear against him, not a breath of suspicion has been able to attach to his conduct as Judge of Probate—there has not been even the pretext of a charge not connected with his action in the Burns case. The war against him has been fought on foreign ground; his adversaries have gained a barren victory over him abroad, and visit their vengeance on him in reprisals at home.

There remains one more step to complete the proceeding; the consent of the Executive to the removal must be given; and it is possible that the Executive may have the wisdom and the firmness to interpose to prevent the consummation. The issue remains to be seen, and will be watched by all well-wishers of the republic with an anxious interest vastly deeper than that which generally pervades our political affairs. All eyes are now upon the Governor and Council.

REMOVAL OF JUDGE LORING.

[From the National Intelligencer, May 2.]

The more we reflect upon the proceedings of the Massachusetts Legislature in the case of Judge Loring, the more does it surprise us that a people who have always heretofore been characterized as lovers of law and order should all at once have thrown away this enviable distinction, and proclaimed themselves the abettors of a state of things little better than mobocracy. If we understand it, the case is a very simple and plain one, not at all requiring legislative interference. Judge Loring, being what is called in Massachusetts a "Judge of Probate," and known to be a man of integrity, firmness, and independence, was selected by the President of the United States as a Commissioner, upon whom devolved the duty of inquiring into and deciding a question occurring under the fugitive slave law, in the well-known case of Anthony Burns. Like a just expounder of the law and an honest servant of the United States, disregarding the threats of the Abolitionists by whom he was surrounded, he did inquire into the case, and decided that the claimant of the slave had a legal right to him as such under the law of the United States. According to this decision, and according to the terms of the law, the slave was delivered to his master, who returned with him to Virginia. This is the whole offence of Judge Loring, who, instead of receiving the thanks of the community in which he had thus nobly vindicated the supremacy and the sanctity of a national law, has been ever since the victim of a persecution which has been steadily seeking not only to tear from his shoulders the ermine which he has so long worn without spot or stain, but to deprive him of other honors of the profession to which his life has been devoted.

The first onset upon him was made by the overseers of Harvard University, in which he had been Law Instructor. As these overseers assigned no reason for determining "to dispense with his services as instructor," and it is acknowledged that twelve of the thirty who composed that body were members of the ruling party in the Legislature, we may fairly suppose that the all-powerful influence of that party was at work to procure his rejection. If the object had been simply to make Judge Loring feel that he had incurred the heavy displeasure of his fellow citizens by disregarding their peculiar opinions in the obedience he had paid to a law of the United States, this rejection from an honorable chair in the University would have been quite enough. He could not have failed to see in it that he was at least no favorite with the ruling party of his State. But we do not doubt that he possessed this knowledge even before he made the decision which has led to the question of his dismissal from the Bench, and, could that knowledge have had the slightest effect in changing his decision, he would richly have deserved not only dismissal from office, but the contempt of the world.

The next step in the persecution against him was made in the popular branch of the Legislature, where an address to the Governor of the State was moved requesting him to remove Judge Loring from the Bench. This address was carried by a vote of 204 to 111, the number of absentees being 61. In the Senate, a body which was devised to constitute a barrier against the desolating effects of sudden popular excitement, the address has just been concurred in by a vote of 28 to 11. Thus have the two Houses of the Legislature, by a vote of nearly two to one, agreed in one of the most arbitrary and dangerous exercises of power that can be attempted against the peace and good order of society; and this they have done without assigning any reason whatever by which the public might judge of the wisdom or good intentions of the act. It is true that, in the House, one of the advocates of the address, in a labored effort to prove the reasonableness and propriety of the measure, said:—

"The independence of the Judiciary cannot be affected by this removal, inasmuch as it will be done for an act not performed as a Judge. No future Judge of Probate will fear that, in consequence of this precedent, any decision of his, as a Probate Judge, and on a matter of probate will give good ground for his removal by address."

But the fallacy in this case is too palpable to need pointing out. Judge Loring, indeed, was not acting in his capacity of *Probate Judge* of the State, nor *on a matter of probate*, but he was nevertheless acting *as a Judge*, for and in behalf of the United States; and the independence of the Judiciary is as much attacked in his case, acting as Commissioner, appointed by the President of the United States, as if his decision had been *on a matter of probate* while sitting as a State Judge. If we permit ourselves to regard the tenure of judicial office as a matter of expediency, to be tampered with by every popular excitement that may arise in our midst, we may soon expect to see laws made for no other purpose but to show how easily they may be broken. The animosities of party will be taken as the dictates of reason, and "nullification" will stalk abroad in its most odious form and sense. It is hinted in one of the Boston papers [the Daily Advertiser] that the Governor of Massachusetts "may have the wisdom and the firmness to interpose to prevent the consummation." But what hope can we have that the chief magistrate belonging to the ruling party will dare assume the courage, even had he the disposition, to plant himself against the overwhelming current of fanaticism that is now inundating the ancient Commonwealth of Massachusetts? There is no hope that he will; and we shudder at the consequences that may follow this outrage upon the sanctity of the Judiciary.

Evening Telegraph.

BOSTON, THURSDAY, MAY 3.

Removal of Judge Loring.

The Joint Legislative Committee appointed to present to His Excellency, Gov. Gardner, the address adopted by the two branches, met at the Speaker's room at a quarter before twelve o'clock, and then proceeded to the Council Chamber, where Hon. O. W. Albee, the Chairman, addressed the Governor in these words:

The Joint Special Committee appointed by both branches of the legislature to wait on your Excellency and the Honorable Council and present their joint address for the removal of Edward Greeley Loring from the office of Judge of Probate for the County of Suffolk, now have the honor to submit to your Excellency the said address, and respectfully ask that your Excellency, by and with the advice of the Honorable Council, would be pleased to grant the prayer of the legislature.

His Excellency replied as follows:

Gentlemen of the Senate and House of Representatives:—Be pleased to announce to your respective branches, that their address for the removal of Edward Greeley Loring has been received, and that it shall receive the earliest attention of the Executive Department of the Government.

The Committee then withdrew.

National Anti-Slavery Standard

FROM BOSTON.

Correspondence of the New York Tribune.

BOSTON, Monday, April 16, 1855.

THE quashing of the indictments against Theodore Parker, Wendell Phillips, and others, as well as the vote of the Legislature, following close upon the heel thereof, recommending the removal of Judge Loring, naturally led the public to expect some allusion to those matters at the Music Hall to-day, and consequently a large concourse filled that place at an early hour; not larger than usual, perhaps, but, being a stranger, it seemed so to me, as I meet no such audiences as assembled here, as to numbers, except at Mr. Beecher's, in Brooklyn.

When the audience had become quietly seated, Mr. Parker rose and gave out the beautiful hymn of Longfellow's:

"Life is real, life is earnest,
But the grave is not its goal;
'Dust thou art—to dust returnest,'
Was not spoken of the Soul.

Lives of great men all remind us
We may make our lives sublime,
And, departing, leave behind us
Footprints on the sands of Time."

The singing is by a small but excellent choir, whose voices fill the immense building to perfection, pleasing, but not tiring, the ear. The prayer I will not attempt to describe, except to say that a profound stillness pervades the large audience during its delivery, so much so that even the ticking of the clock may be heard between its periods; your feelings are stirred, and a sudden moisture is felt in your eyes. Surely, you mentally exclaim, this man, who thus inspires you, carrying your feelings upward upon the wings of earnest prayer, is a strange kind of Infidel.

This done, Mr. Parker read the third chapter of Daniel: Nebuchadnezzar, the King, made an image of gold, whose height was three-score cubits, and the breadth thereof six cubits. He set it up in the plains of Dura, in the province of Babylon, embracing a history of the King's attempt to compel the worship of said golden image—of the refusal of the three worthies, Shadrach, Meshach and Abednego, to obey—of their being cast into the burning fiery furnace, and of their miraculous preservation by Divine power. It was read with uncommon unction, and its singular adaptation to the subject, which evidently engrossed all minds, produced a marked sensation in the audience. He took his text from the eighteenth verse.

"Be it known unto thee, O King, that we will not serve thy gods nor worship the golden image which thou hast set up."

Upon this he went on to treat of the duties which Religion requires of us as citizens; the great duty of being true to our consciences and natures. He analyzed the obligations of the individual and social man, enlarging, with his peculiar ability, upon the philanthropic function—that of our duty to protect the weak against the strong, &c. Job "brake the jaws of the wicked, and plucked the spoil out of his teeth; he delivered the poor that cried, and the fatherless, and him that had none to help him, and caused the widow's heart to sing for joy; he was a father to the poor, and the cause which he knew not he searched out."

He then made a brief allusion to the history of his arrest, in November last, for words spoken in Faneuil Hall, and of his being bound over to take his trial on the fifth of March. It was the eighty-fifth anniversary of the first British shot fired into the American ranks for daring to rebel against British authority—it was proper that such anniversary shonld be selected by American tyranny to discharge the first shot into American bosoms for free speech. Uncertain as to what a few wicked men—they were only a few—might do toward his conviction, he had arranged his affairs for a twelve months' imprisonment; by the assistance of two generous friends, who had kindly proffered their aid, he had arranged to have his sermons read to them during his incarceration, and had actually prepared his first sermon, which he designed sending to the *Tribune*, to be spread before its hundred and seventy thousand readers. With such an audience, he could be content to preach from between prison walls. He had also designed to devote his hours to authorship, as the quietude of prison-life he thought well-fitted for study, and he should have produced a few books also, and better ones than the world will be likely to get from him under present circumstances. In announcing the result of the strong efforts made to convict him and his friends—of its failure, and the utter discomfiture of his persecutors—not an exultant word was employed, but words of thankfulness that they had escaped the furnace thus prepared for their reception; to God belonged all the praise; he had no feelings of hardness or ill-will towards those who had sought his hurt. A brief prayer closed the exercises, and the large audience, which had listened with breathless attention, but without apparent excitement, quietly retired.

From our Boston Correspondent.

NO. CLXVI.

THE ARGUMENT.—The Correspondent explaineth why he writeth—He praiseth Procrastination—And blasphemeth the Copy Book—He giveth it the lie—He defineth Punctuality—He speaketh of St. Hallett's Day—He defendeth that holy man—And condoleth with him—He querieth as to angelic onions—He praiseth Judge Curtis—Prometheus in a silk gown—Disappointed Vultures—The Loring Removal—Chances of the same—Gubernatorial Castles in the Air—Proposed Proviso—Its Effect, if passed—The Nunnery Committee—Mrs. Patterson and Mrs. Harris—Mr. Hiss defended—What is expected out of doors—And what is likely to be done in them, &c., &c., &c.

BOSTON, April 23d, 1855.

YOU would have a very scant chance of a letter this week, if it were not that there is something else which I ought to be doing. That being the case, it would not be human nature if I did not feel moved in every direction except the right one, and disposed to do anything and everything excepting that one particular piece of task-work. I have been away, too, for a week or so, as perhaps you may be aware, which has helped to drive me into a corner a little closer even than usual. So that, on the whole, it is quite likely that you may get your allowance this week—thanks to that best of Virtues, Procrastination! "The Copy-book says, 'Procrastination is the Thief of Time!'" does it? Then, the Copy-book lies. It's no such thing. Procrastination is the Save-all of Time. For, of course, if you put off doing a thing until the last moment and leave yourself no more time than is absolutely necessary for doing it, you save all the time you would have been dawdling over it, had you given yourself any more. Don't you see? It's the greatest discovery of the Age. I am not sure that I have not said this, or something like it, before. But, never mind, it can't be

repeated too often. Line upon line, precept upon precept, you know. It's the secret of the immense amount of intellectual labour I go through with. It is like Punctuality. Now, there are some unpunctual people who are always a quarter of an hour too soon. Of course, they lose all those quarters of hours. Your true man of punctuality is he who arrives at the very article of time, just as the Ferry Boat is pushing off, or the Railway Train snaking its way out of the Station. He enjoys the sweet satisfaction of having made the most of his time. And has n't the Copy-book something to say about *Time*, I should like to know? And are not those odd minutes, thus nicely skimmed off, the very creamiest ones of life? *I* think so, at any rate.

I wrote to you last on the very Eve of St. Hallett's Day—the blessed day when he was to bring to the Stake, or, at least, to the preliminary Inquisition, those contumacious heretics, Phillips, Parker, Higginson, and the rest of them. Certainly, things took a turn different from what was looked for. Great was the disappointment that has ensued. Nobody is believed to be pleased with the present state of things, excepting Mr. Justice Curtis. Mr. Hallett is said to have been provoked to the swearing point. This, however, I cannot believe. I cannot for a moment admit the possibility of a pious member of a Low Episcopal Church, and one who was selected to represent it in its last Convention—I say, I cannot admit the possibility of such a man's *swearing*. Catching negroes, and restoring them to the Gospel Privileges from which they have ignorantly removed themselves, is strictly a part of American Christianity. It was the chief object of Curtis's Mission and of the Teachings of the Apostles. This, Divines of all stripes proved, four years ago, out of the Bible, from Genesis to Revelations. But *swearing!* It cannot be. Some enemy hath done this. But, of a surety, it was enough to try the patience of that good man. After he had been at the pains to deal with two Grand Juries, and after he had, with infinite labour and pains, obtained a True Bill against those blasphemers of the True Faith, to have all his handiwork *quashed*, sent to everlasting smash, and that, too, by one whom he had, not unreasonably, looked upon as his confederate, was *too* bad. Anybody else would have sworn under stress of such a provocation. But not he! O, no, not he! Let us not lose hold o all our faith in human goodness. It was a reflection on his professional skill as well as a wound to his sensibilities as a National Patriot. If he *had* sworn, I cannot but think that the Recording Angel would have tried to squeeze out one tear to blot it out forever. I wonder whether any of the modern Seers who look into the other world in rapt vision, and tell us what we are to expect in it, make mention of any such things as *onions*, there.

It is said, though I do not vouch for it, as Mr. Hallett has not made me his confidant as yet, that he or his friends declare that Judge Curtis came back from Washington resolved to find or make a flaw in these indictments. Like a man wise in his generation, as he undoubtedly is, notwithstanding the stupendous blunder of his Charge last summer, when he found he had put his foot in it, he lost no time in taking it out again on the first opportunity. When he felt the bridge, he knew by instinct it wouldn't carry him over. He had miscalculated the force of the Jordan of popular feeling and the strength of the pro-slavery pontifice thrown over it for the easy passage of political pilgrims to the promised land of office. So he drew back his steps and turned his face in another direction. It is not to be wondered at, that this eminent magistrate should not have looked forward with rapture to hearing that Speech of Mr. Parker's in his own defence, which Mr. Curtis called for at the Compromise Meeting in Faneuil Hall, when he himself was on probation and was earning his present promotion, and which, though then ready and offered, has never yet been heard. It is not unnatural that Judge Curtis should not have relished the notion of being chained to the Bench, like a new Prometheus in a Silk Gown, and those two vultures, "with their beaks in his heart and their fiery eyes in his inmost soul," pegging away at him at their good will and pleasure. But then, only think of their disappointment! A Catholic sympathy cannot but take even them in in its embrace—as the little child in the Independent's Story cried because the poor little lion was n't like to get his share of the prophet Daniel in the picture. Just think of it! When they had thought that they should have Judge Curtis nailed to the Bench and obliged to hear all they had to say, until they had entirely relieved their minds, to have it all quashed under his feet! Either of them, I will answer for it, would have thought such a chance cheaply bought at the price of six months' imprisonment and three hundred rascal dollars. So, I think, the least they can do will be to publish the speeches they would have made, had they not been thus untimely nipped, not in the bud, but in the seed.

The House of Representatives, as you and your readers very well know, passed the Loring Removal Address, by a vote of about two to one. This was much better than I had hoped. A moderate majority was all I looked for. It will go a great way to cover their Nunnery Examinations and divers other simplicities into which the Know-Nothings have suffered themselves to fall. The vote in the Senate is to be taken on Wednesday, and will be known before your next paper, and this letter, appears.* Of course, every machinery will be put in motion to stop the process there. And as the Body is so much smaller, there is a corresponding chance of success. The talk now is that Governor Gardner is desirous of having it fall through, before reaching him. The gossip is, for the truth of which I in nowise vouch, that his Excellency esteems himself to have a contingent possibility of being "Sam's" candidate for the Vice-Presidency, next campaign, and so is desirous of keeping his title clear to those mansions in the skies. A Mansion in the Skies, or a Castle in the Air, I imagine it will prove to be; but it is just such airy nothings that lure men into

quagmires and over precipices. Perhaps, this is a mere invention of the enemy. But, if not, the influence of the Governor would be likely to be much more strongly felt among forty men than among three or four hundred. It is said that it is intended to try again the *dodge* which came no very far from succeeding in the House—that o passing the Address with a Proviso that if Judge Loring resign his Commissionership within three days, it shall not be presented to the Governor. The result would hardly be changed were this to be done, as it is hardly to be supposed that even Judge Loring would stultify himself to the extent demanded. It would, at all events, convince all Hunkerdom that he ought to be removed from an office which he would submit to such a humiliation to retain. But, let the Address pass or not, and be granted or not, it will have been the best Winter's work any Massachusetts Legislature has been engaged in these many years—and will yet bring forth fruit.

The Nunnery Matter and the expedition of Mrs. Patterson to Lowell, at the expense of the Commonwealth, have become the property of the whole country, and I don't think I have anything to tell that everybody doesn't know. The very most was made of the first matter by the enemies of the Know-Nothings—though it certainly did not tend to increase their reputation for Knowing Much. The second affair attracted more serious attention, out of the political circles who wished to make capital of it, one way or the other. We have been so long accustomed to pay for the journeys, dinners and wine of our Collective Wisdom, that we have got used to it. But when it is now proposed to tax our pockets and our patience yet further, and in new lines of expense, the lieges are rather inclined to be restive. I don't know but that the Woman's Rights Party will regard this adding of Mrs. Patterson to a Legislative Committee as the first fruits of their labours, and as a foretaste of the Good Time Coming when Woman shall have her Own. But the unbelieving public are disinclined to see any good in it—the rather as the personal identity of Mrs. Patterson seems to be almost as mythical as that of the "lady which her name was Harris," herself; though, I believe, no legislative Betsy Prig has ever ventured to affirm that "she did n't believe there was n't no such person." And there is the less reason for supposing that this measure had anything to do with the Women's Rights Movement, inasmuch as Mr. Hiss, the mover in it, is understood to be a National Patriot of the intensest description, and perfectly sound on all questions of Rum, Niggers and Women. The Report of the Committee to which it was referred has met with general ridicule and denunciation; and, though accepted, is yet likely to make fun. The feeling out of doors is, that the House is bound, in self-respect, to expel Mr. Hiss, for this Adventure of his in behalf of this distressed damsel. But it is most likely they will cover it up.

D. Y.

DAILY ADVERTISER.

BOSTON:

FRIDAY MORNING, MAY 11, 1855.

THE CASE OF JUDGE LORING.—It is with great satisfaction that we record today the decision of the Governor of the Commonwealth, on the address of the two branches of the Legislature, requesting him to remove the Hon. Edward G. Loring, with the advice and consent of the Council, from the office of Judge of Probate for the County of Suffolk. His decision is in the negative, although it is understood that the Council gave their advice in favor of it, by a large majority. This decision is of course final, as the tenure of judicial offices under the constitution is "during good behavior," terminable only by the judgment of a court of impeachment after trial on specific charges of misbehavior, or by the act of the Governor, who is bound by his oath to act according to the convictions of his own mind, and not merely by the request of the legislature, or of the Council. The alternative of an impeachment cannot be resorted to, for there is not even a pretext of misconduct in office, or misconduct as a man in any sense whatever.

It does not detract from our gratification at this result, that it proves that we were not mistaken in placing confidence in His Excellency. From first to last throughout the discussion of the subject, we have held to the opinion that, the Governor would be found firm in the end. In the first article in which we alluded to the subject, more than three months since, we remarked "We can hardly conceive that Governor Gardner should countenance the measure;" [Daily Advertiser, Feb. 9]—and in our latest article, in commenting upon the vote of the Senate, we intimated that "the Governor may have the wisdom and the firmness to interpose to prevent the consummation." [April 28.] May a like confidence in the wisdom of our rulers always prove to have been equally well placed!

We regard this decision by Governor Gardner as of the utmost importance to the Commonwealth, in several points of view, and we feel bound to express publicly our unqualified approval of the act, as indicating under the circumstances of the case, a decision of character and a regard for principle, overpowering the trammels of party, in the highest degree creditable to him. The decision is, moreover, sustained in our opinion, by reasons stated in the message which are sound and conclusive, and presented with great clearness and ability.

Indeed, the predominant feeling on reading the message is, that there is a superfluity of reasons, each of which if it stood alone might seem decisive, for declining to commit the act solicited, especially in the absence of a single reason in favor of it, or tending even to justify the removal, and far less to require it as a matter of expediency. The presentation of a request by the resolve of both branches of the legistature, for the performance of so responsible an act as the removal of a judicial officer, in face of that emphatic declaration of the Constitution which pronounces the independence of the judiciary to be one of the most essential safeguards of the life, liberty, and property of every citizen, and without the suggestion of any reason whatever for it, would of itself have excited surprise, were it not well known from the history of the proceedings in the case, that the only reason to be assigned, and that alone which impelled the legislature, acting under the influence of intense party excitement, to make the request, so far from requiring or justifying the removal of Judge Loring from his office, by the Chief Magistrate of the Commonwealth, is one which, if acknowledged by him as the motive of such removal, would be a distinct acknowledgement of the violation of the oath taken by him on entering upon his office, "to support the Constitution of the United States."

That reason, as is notorious, is nothing more nor less than that Judge Loring in the discharge of his duties as an officer of the United States,—an office in no sense incompatible with that of Judge of Probate under the Constitution and laws of the State,—was called on to aid in the execution of the fugitive slave law in carrying out a provision specially enjoined by the Constitution of the United States, and as an upright, conscientious man, faithful to his duties in every trust, he did not decline the arduous and responsible duty. This is the reason and the only reason pretended, for his removal from the office of Judge of Probate, all the duties of which he has most faithfully performed.

A portion of the people of the State under the influence of party fanaticism, have been persuaded that this law is unconstitutional, and that every man who aids in executing it should be put under the ban of the popular displeasure. It is for this reason and for this reason alone, that Governor Gardner has been solicited by a party legislature to remove Judge Loring from a judicial office, in which he is fully and clearly protected from removal on every sound principle of interpretation of the Constitution, unless by impeachment for some misdemeanor or maladministration of his office, of neither of which has any individual ever uttered a suspicion.

We maintain, therefore, without hesitation, that if Governor Gardner had, under these circumstances and for this reason alone, in a case in which no other is pretended, even on the solicitation of every member of the legislature, removed a judicial officer, it would have been a gross violation of that principle and express provision of the State Constitution which protects the independence of the judiciary, and an act which would have deserved impeachment. It would have been no excuse for him, that a fanatical party legislature thought the fugitive slave law unconstitutional, and that it ought to be resisted in Massachusetts, in violation of the public peace, and of the Constitution of the United States. It is enough that Governor Gardner as a man of sound understanding, and not blinded by political prejudice, believes the law to be constitutional, that it has been pronounced to be so, by the Supreme Judicial Court of Massachusetts, and that it is the only law for carrying into execution an explicit requisition of the Constitution, which Constitution he and every member of the legislature who makes this request has sworn to support.

On these points it was the duty of Governor Gardner to form a judgment for himself, and not to rest his conscience in the discharge of his duty in a matter so vital to the preservation of our system of government, as one affecting the independence of the judiciary, on the mere request of the members of a legislature, who have not ventured to assign any reason for the measure, having themselves acted under the excitement of such apostles of abolitionism, as Theodore Parker and Wendell Phillips.—They profess to believe the fugitive slave law unconstitutional, and strange as it may seem, that it is lawful and praiseworthy to prevent its legal execution. This is of course no guide for the conduct of a faithful Chief Magistrate of the Commonwealth, and had that magistrate on such a pretext, or in compliance with the request of legislators governed by such a pretext, removed Judge Loring from his office, we insist it would have been a violation of the State Constitution in assailing the judiciary under a pretext not warranting the excuse of the power of removal. It would be at the same time, a violation of his oath to support the Constitution of the United States, in making himself the instrument of a party, in the persecution of a public officer for no other cause, and under no other pretext, than the faithful discharge of his duty in the execution of a law of the United States, in the support of public order, and in the maintenance of the Constitution. Most men perhaps in his position might have been blinded to the path in which his duty called him. We honor him for having so clearly discerned it, and for his independence in pursuing it.

Gov. Gardner's Message

To the House of Reprcsentatives announcing his refusal to comply with the request of the address for the removal of Judge Loring.

COUNCIL CHAMBER, May 10, 1855.

To the Speaker of the House of Representatives:

I have received the address of the two branches of the Legislature, requesting that Edward Greely Loring may be removed from the office of Judge of Probate for the county of Suffolk.

In my inaugural address to the legislative branches of the government I used the following words: "I know no safer index in official action than a conscientious conviction of duty,—none more fluctuating than the attempt to satisfy temporary caprice.—Principles are enduring; and if disregarded, sooner or later the verdict of condemnation will be recorded against those who are false to their requirements.—Let us then be true to our country and our duty.—Let the success of principle, not of party, be our desire—the benefit of the State, not of a faction, our aim."

I have endeavored to examine the question submitted to me in the light of those principles alone.—I desire to do right for the sake of the right, forgetful of expediency, and disregarding consequences.—I ask only that conscientious motives may be attributed to me in my actions, and that my constituents may believe that obedience to justice is my sole desire.

I shall not attempt so much to demonstrate the correctness of the result to which I have attained, as to narrate plainly and concisely the course by which my convictions have been formed.

The address of the two houses was presented to me on the 3d inst., in the following words:—"The two branches of the Legislature, in General Court assembled, respectfully request that your Excellency would be pleased, by and with the advice and consent of the Council, to remove Edward Greely Loring from the office of Judge of Probate for the County of Suffolk."

Three courses present themselves for my adoption; first, to request the Legislature to favor me with the reasons for such removal; secondly, to act as I deem my duty without communication to the Legislature; and thirdly, to give my reasons for the course which my convictions shall lead me to adopt.

The original papers, now before me, demonstrate that in every instance on record, where Judges of this State have been removed by address, full reasons for removal have accompanied said addresses.—Though anxious to have had the specific reasons assigned for the proposed removal, in order to avoid action on doubtful grounds, the Legislature having omitted to embody in the address the results of the investigation of its committee, carried on with facilities the executive department does not possess, rather than farther prolong the session, I have concluded not to pursue the first course.

As to the second, if a Legislature ask the executive to perform an act, without specifying the reasons therefor, he may without discourtesy omit to assign the reasons which constrain him to decline acceding to their request. But the nobler, manlier course is to adopt the third method, and this I now proceed to do.

The question of acceding, or declining to act in accordance with an address for such a removal, is widely different from the constitutional power given the Executive to sign or veto legislative enactments. In the latter case, the constitution limits the period that a bill shall be retained for consideration, and provides that a veto may be overruled by a two-thirds vote in both branches. It is wholly different in the case of a legislative address, no limit in time being fixed, and the action of the Executive being final. Feeling deeply, then, the importance of a decision which must be a finality. I have still been impelled to hasten my reply, before the Legislature shall be prorogued, in order that further action may be had of a different nature, should the two Houses deem it advisable.

The power of removing a Judge by address is founded on the proviso to article 1st, chap. 3 of the Constitution, and is in the following words:—"Provided, nevertheless, the Governor, with consent of the Council, may remove them upon address of both Houses of the Legislature."

It is very important that this passage be examined in the light of contemporaneous exposition, to ascertain the intent of the framers of our Constitution. The Convention that adopted it met in Cambridge, Sept. 1, 1779. By the journal of that Convention it appears that on Saturday, Nov. 7, it was voted, 78 to 25, that the Judges of the Supreme Judicial Court should hold their offies during good behavior, and on Wednesday, February 16, 1780, the same tenure was adopted for the other judicial officers. Qn the same day, the proviso before quoted, "being read, was largely debated, when the same was put and accepted."

I have in vain attempted to procure an outline of that debate and cannot learn that it was ever printed; the papers of the day containing no abstract of it, and no memorandum in manuscript being known to exist. We are therefore compelled to infer the intention of the framers of this proviso, from collateral and nearly contemporaneous evidence, and to apply to its interpretation the immutable principles of right and justice, that were never new, and never will be old.

In the address to the people of Massachusetts accompanying that constitution, signed by James Bowdoin, as President, is the following passage: "You will readily conceive it to be necessary for your own safety, that your judges should hold their offices during good behavior; for men who hold their places upon so precarious a tenure as annual or other frequent appointments, will never so assiduously apply themselves to study as will be necessary to the filling of their places with dignity. Judges should at all times feel themselves independent and free." Such language indicates that the Convention intended that our judges should hold their offices during good behavior, and not on "so precarious a tenure" as the will of the Legislature, and that it solemnly declares that their liability to removal, without reasons being given, without trial, and without an allegation of crime, would prove fatal to the "people's safety," and the "independence and freedom" of the judiciary.

A committee of delegates from the county of Essex was held at Ipswich to consider the Constitution formed two years previous to that Convention, whose action we have just considered. In a very able address signed by Peter Coffin as Chairman, and printed at Newburyport in 1778, on page 39 it is forcibly affirmed. "The same power," (that is the Executive,) "which appoints the Judges, ought not to have the power of removing them, even for misbehavior. Whoever appoints the Judges, they ought not to be removed at pleasure. One of these two powers, (the Executive and Legislative) should appoint and the other remove." And page 40—"Neither will the Executive body be the most proper judge when to remove. * * * * Let therefore the Judges be appointed by the Executive body—let their salaries be independent, and let them hold their places during good behavior. Let their misbehavior be determined by the Legislative body. Let one branch impeach and the other judge. Upon these principles the judicial body will be independent so long as they behave well; and a proper court is appointed to ascertain their real conduct."

All these circumstances tend to show that the clause of the Constitution under consideration is not to be construed as conferring a power of removal at the mere wish of the Legislature. If it can be used once it can be a thousand times,—if to one judge, then to the whole bench—if now, every year. Such an interpretation would directly conflict with other provisions of the instrument.

If compared with the 29th article of the Bill of Rights, is it not a contradiction in terms to say that "it is essential to the preservation of the rights of every individual, his life, liberty, property and character, that there be an impartial interpretation of the laws and administration of justice," and then to provide that its interpretators and administrators may

be changed every year with each succeeding political revolution? Is it not a futile declaration that "it is the right of every citizen to be tried by judges as free, impartial and independent as the lot of humanity will admit," and then to add that they can be removed without reasons given or crime alleged, if they will not surrender their freedom and abandon their independence to the behests of dominant parties?

If it be the meaning of this proviso that judicial officers may be removed without cause, on the address of the two Houses, all sections of the Constitution referring to impeachment of Judges are superfluous. Why provide for impeachment and trial by the two branches under the solemn forms prescribed, if an address from these two branches, without confronting the culprit with his accusers, without even an alleged culprit, or any accusers, or any crime may justify a judicial removal?

Is it not proper then to inquire if there is any interpretations which will make these seeming discrepancies harmonious, these indications of injustice unfounded, these apparent contradictions one homogeneous whole?

Such interpretations may be found by construing our Constitution as declaring that our judges shall hold office during good behavior, shall be removed by impeachment for crime, and by address for any dispensation of Providence that makes them, without criminality, incompetent to perform properly the duties of their office.

This has often been affirmed to be its true intent by our wisest statesmen. For instance, in the debates of the Convention of 1820, Mr. Pickman of Salem said, "It was proper to have a provision of a similar nature, to meet such cases as were not a proper subject of impeachment, such as incapacity from natural infirmities." Mr. James Savage of Boston said he hoped "We should have the advantage of both modes of removal from office, by impeachment and upon an address of the Legislature, so as to meet the moral disqualifications and the natural disqualifications for office."

Mr. Lemuel Shaw, our present Chief Justice, said, "The general principle was that they should be independent of other persons during good behavior. What is meant by good behavior? The faithful discharge of the duties of their office. If not faithful, they were liable to trial by impeachment. But cases might arise when it might be desirable to remove a judge from office for other causes, He may become incapable of performing the duties of his office, without fault; he may lose his reason, or be otherwise incapacitated. It is the theory of our government that no man shall receive the emoluments of office without performing the services, though he is incapacitated by the providence of God. It is necessary, therefore, that there should be provision for this case."

I well know that in the same debate distinguished and able constitutional lawyers assumed that this proviso might authorize any or all judicial removal, in their arguments in favor of its modification; and that in consequence of these arguments, that convention proposed its amendment. But the fact that this alteration was rejected by the popular vote, may be deemed a pregnant indication that the people of our State did not believe that so unlimited a power of removal was intended by that proviso, or that it would ever be so construed by the legislature.

I am fully sensible that the letter of the proviso, without reference to the context, seems to authorize the removal of any and all our judges by the Executive, with the consent of the Council, on an address of the Legislature. But I am constrained to believe that judging by the rule that any instrument must be taken as a whole, and all its provisions be scanned in the light of all its other provisions, this proviso was intended by its framers to apply only to those cases where a judge is incapacitated by the Providence of God, and having committed no crime, cannot be reached by impeachment.

This power has been exercised but twice in Massachusetts; first, in the case of Paul Dudley Sargent and William Vinal, Justices of the Court of Common Pleas in the county of Hancock, who, the address states, "have been duly convicted before the Supreme Judicial Court holden within and for the said county of Hancock, of the crime of willful and corrupt extortion in their offices of Justices of the Court of Sessions, by means of which conviction the confidence of the people must be in a great degree diminished in the said Sargent and Vinal, and the honor and dignity of the government require that men against whom such charges have been substantiated should not be permitted to exercise offices of such high trust and importance."

It appears from the records of the Council that these persons both tendered their resignations, after the Legislature had voted the address, and before executive action was had thereon, which however were not accepted, but they were removed.

If the construction of the Constitution given by me is correct, it was improper to remove those persons by address. They should have been brought to trial by impeachment, under the other provision of the Constitution, which refers to the commission of crime; and I find that John Quincy Adams, then a member of the Senate, sustains this view in a solemn protest, which he caused to be entered on the Journal, March 4, 1803, in the following words:

"The subscriber requests that, for the following reasons, his dissent from the vote of the Senate to accept the report of the committee for addressing his Excellency the Governor to remove Paul Dudley Sargent and William Vinal from the offices of Justices of the Court of Sessions and of Common Pleas for the counties of Hancock and Washington, may be entered upon the journals of the Senate:

First, Because the grounds alleged in the said address for the removal are for official misdemeanor, and the subscriber conceives it to be the intention of the Constitution that no judicial officer should be removed from office by the mode of an address of the two Houses, on the ground of offences for the trial of which the Constitution has expressly provided the mode of impeachment.

Secondly, Because he considers the independence of the judiciary as materially affected by a mode of proceeding which in its effects must make the tenure of all judicial offices dependent upon the verdict of a jury in any one county of the Commonwealth.

Thirdly, Because the decision of the Senate in this case, affecting in the highest degree the rights, the character and reputation of two individual citizens of this Commonwealth, ought not to have been taken, without giving them an opportunity to be heard in their own defence."

The other case of a removal of a Judge by address was that of Theophilus Bradbury, of the Supreme Judicial Court. The address was voted June 21st of the same year, 1803, and declares "they find that by a stroke of the palsy on the 13th of Feb. A.D. 1802, the said Judge Bradbury has been rendered unable to perform any duties of his office since that time; that from the nature of the attack there is no reasonable ground to hope that he will ever be restored to such health as will enable him to perform the duties of his office, and therefore that his longer continuance therein is likely to embarrass the judiciary of this Commonwealth." Judge Bradbury being unable to appear in person, when summoned before the executive, after being heard by counsel, was removed.

This case came clearly within what I think is the intent of the Constitution, and it is to be remarked that John Quincy Adams, though still a member of the Senate, did not protest against this action, as he did in the previous case, thus showing he deemed it within the scope of constitutional power.

In recapitulating this branch of the subject, I state that though the tenor of the language of the Constitution seems to authorize this power in every case, and without reasons given, I am nevertheless impelled to believe that such is not its true interpretation, from a comparison of the different clauses of that instrument, from the statement of the address that accompanied it, from contemporaneous evidence, and from the uniform acquiescence of the State government with one exception, and that exception having been recorded against it, the protest of no less a man than John Quincy Adams.

But granting, for the purpose of further consideration, that the intention of the framers of our Constitution was to authorize, for any cause or for no cause, the removal of any or all of our judges by address of the Legislature to the Governor, with the advice and consent of the Executive Council, I now proceed to examine in that light the present case.

Either this clause authorizes removal only for an act of Providence, there being no guilt or ground for impeachment, or it authorizes it at any and all times, without limitation, for cause or without cause. If this latter view is correct, and if such unlimited power is clearly given, the justice of using that power in the case of Judge Loring is the only question to be considered.

It is not alleged that Judge Loring has committed any crime against the laws of the United States or of Massachusetts. It is not alleged that he is rendered unfit for the performance of the duties of his office by insanity, physical incapacity, or any other visitation of Providence. This case, then, is the first during three-quarters of a century, where it has been proposed to use this alleged constitutional power. This is to be a precedent by which our judicial officers are to be placed in the same category with postmasters under the general, and sheriffs under the state government, to be removed with every change of the ruling party.

Judge Story said, in the Convention of 1820, speaking of the very passage under consideration, "the first instance of removal would establish a practice which would never be departed from, of shifting the whole court with every change of the party in power." That which most degrades modern politics which most corrupts public morals, and prevents the best men from consenting to take offices of emolument, is the custom, that long and constant precedents hardly palliates, but which has grown now to become almost a necessity, the removal of honest and faithful public officers to make room for the friends and supporters of the victorious party.

There is no official action that so disgusts a high-minded man, as this now necessary practice of removal. I would not be the first to introduce it even in respect to the most unimportant offices. When, then, I am solicited to perform an act, which may be construed as inaugurating this custom, for a precedent during all time, as regards the judiciary, that body concerning whom the Bill of Rights declares "that it is essential to the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws and administration of justice," and that "it is the right of every citizen to be tried by judges as free, impartial, and independent, as the lot of humanity will admit," is it strange that I recoil from the task with distrust and alarm?

The next reason why I hesitate to remove Judge Loring, assuming the power so to do to be clear and positive, is that no crime is alleged against him, in office or out, and no intimation is given that he has not satisfactorily and faithfully performed his duties as Judge of Probate. The 12th article of the Bill of Rights declares that "no subject shall be held to answer for any crimes or offences until the same is fully and plainly substantiated, and formally described to him." In the case of address, the Legislature act as a public prosecutor, or grand jury, to frame the indictment, and an indictment without an allegation of crime would be quashed at once by the Court. The Executive acts as the Court in this case, and certainly should not condemn without some specification of criminality.

But it is alleged there was that action in the case of Judge Loring, which, without being an overt crime, renders him so obnoxious and objectionable as to make his removal desirable. Still, that removal should take place in a way unquestionably constitutional; in such a manner that while the obnoxious individual is removed from his public post, no precedent is established pregnant with evil to those who may come after him, and so that punishment shall follow only a plain violation of law.

Such a course is open for the Legislature to adopt. In both branches an attempt was made to render the holding of the office of Judge of Probate incompatible with that of the commissionership under which Judge Loring's action was deemed obnoxious and objectionable.

To the allegation that Judge Loring has shocked the popular sentiment of Massachusetts, it may be pertinent to ask what the duty of judges is. Are they to expound the laws as made by the law-making power, or are they to construe them in accordance with popular sentiment? When the time arrives that a judge so violates his oath of office, so to shape his decisions according to the fluctuations of popular feeling, we become a government not of laws, but of men.

Supposing, as is alleged, that according to the ordinary balancing of conflicting testimony, the decision of Judge Loring was erroneous, no one asserts or believes that he wilfully adjudicated wrongly and corruptly. The error, if error it be considered, was a mistake. Is a Judge, then, to be removed from office, even if in the execution of that office he gives a mistaken judgment? Such an impractical and dangerous policy would lead to a daily removal among judicial officers of our inferior courts, so often are their decisions overruled by higher tribunals.—

As to the allegation that the conduct of Judge Loring in the trial was harsh, unfeeling, and not characterized by the humanity which the maxims of our jurisprudence throw around a prisoner, and that he did not give him the benefit of the doubt which the theory of our law, as old as the law itself, grants every person arraigned, there is conflicting testimony. The senior counsel for Burns, perhaps as impartial a witness as the nature of the case permits, testifies that he wrote in his private journal during the trial, "The conduct of Judge Loring has been considerate and humane;" and his present statement confirms his contemporaneous declaration.

In such a conflict of testimony, let us grant Judge Loring the benefit of that doubt, which he is accused of having withheld from the individual arraigned before his tribunal, lest we ourselves do violence to the same great and sacred principle which it is alleged he lost sight of in the exercise of his judicial function.

As to the objection that Jvdge Loring did not act up to the convictions of the people of Massachusetts, concerning the constitutionality of the Law, he was led to enforce, regard must be had to the constitution of the human mind, and the historical succession and position of events touching this enactment. Bearing in mind that the law of 1793 was repealed by implication by the act of 1850, that accordingly the Massachusetts statute of 1843 became inoperative, that repeated attempts to re-enact it had failed in successive legislatures, that the highest judicial tribunal, national and State, and the large majority of the jurists and statesmen of the Republic had pronounced the act constitutional, that a great political revolution had but recently swept the country, openly acknowledging it as a finality, that from commercial and other influences the county in which he exercised his judicial functions, and the people with whom he came in more immediate contact were imbued with similar views, that the influences of the profession to which he was educated, and to which he had devoted the greater part of the ordinary life of man naturally and universally develope a regard and even reverence for existing laws and established institutions, bearing in mind also that in the fervid excitement and unfolding of American ideas, the changes of popular sentiment that with such facility and rapidity embody themselves in statutes and laws through the machinery of our elective bodies of legislation, must and frequently do outrun the convictions of many of our citizens, it would seem to be going too far to hold in all cases the human mind amenable whenever it fails to come up to the impressions and sentiments of the day.

If we are so to hold, are we not digging a pitfall into which the most salutary enactments passed by the Legislature this winter may at some future time be hurled with all who cling to their constitutionality and expediency. It can hardly be denied that such is a fair and just illustration of the tendency of this policy, for it must be remembered that but five years ago the votes and voice of Massachusetts in both Houses of Congress were given to the passage of the very statute under which Judge Loring acted.

Would it be more strange if within a few years alien hands should control our State government, and bring this precedent for removing those from judicial office who, in obedience to a law which has but just now received your sanction, should refuse to aid in naturalizing a foreigner in the Courts of Massachusetts?

For these reasons, maturely considered, but hastily written, and many of which are merely glanced at without being fully devoloped, I am constrained to respectfully decline acceding to the Address of the two branches of the Legislature, for the removal of Edward Greely Loring from the office of Judge of Probate for the county of Suffolk.

HENRY J. GARDNER.

Evening Telegraph.

BOSTON, FRIDAY, MAY 11. 1855.

The Governor's Message.

We are disposed to give Mr. Gardner all due credit for integrity of purpose in refusing to comply with the will of the people and the solemn request of their Representatives in the matter of the removal of Judge Loring. We shall not question his motives for so doing. We shall not look to Virginia in particular, or to the South in general, to the presidential chair of the next term, nor yet to the Vice President's for an explanation of his act. We shall consider only his reasons as they are given by himself, taking it for granted that they *are* his reasons, and that he has no hidden motives, nor ulterior views.

It seems to us, from the Message, that Mr. Gardner does not understand the grounds on which he has been requested to remove Judge Loring; that he is laboring under very strange misapprehensions as to the facts in the case, and that he has not heard, or has not comprehended the arguments that have been used by the advocates of removal and which have carried conviction to the minds of the people and their representatives in the Legislature. He advances nothing—absolutely nothing—that is new. His message is but a repetition of arguments that have been before repeatedly urged by Mr. Dana, Mr. Huntington, and the Whig Press of Boston, with far greater force, and have as often been answered in the debates at the State House and in the columns of the *Telegraph*, the *Springfield Republican* and other journals. We do not think it worth while to repeat the arguments that we have hitherto used. If eminent lawyers like Messrs. Dana and Huntington have failed to convince the public that Judge Loring should not be removed it is not likely that Mr. Gardner will succeed.

The greatest part of the Message is taken up with special pleading to prove in substance, if not in terms, that the Legislative and Executive branches of the government have no right to use the power of removal by address except in the case of Judges who are incapacitated from performing language of the Constitution, "The Governor, with consent of the Council, may remove them [Judges] upon the address of both Houses of the Legislature." This language is too plain to be quibbled away. There is in the Constitution no limitation whatever of the power of Address. And in 1820 the people emphatically refused to allow any such limitation to be put into the Constitution.

The Governor throughout his Message assumes that the sole complaint against Judge Loring, the sole reason why his removal is demanded is, that he has not acted in compliance with popular sentiment. It is scarcely necessary to say that this assumption is altogether groundless. The attempt to represent Edward Greeley Loring as a stern, unbending and independent Judge, manfully doing his duty in spite of popular clamor, may succeed in Richmond or Washington—but in Boston it is simply absurd. Judge Loring unquestionably believed that in sending back Burns he was performing an act in which he had the support and the sympathy of all that was respectable and influential in the Commonwealth. He had no idea of the strength of the Anti Slavery sentiment, and thought, with the *Daily Advertiser*, that he had nothing to dread but the frantic ravings of a contemptible gang of Abolitionists and Free Soilers, who had been put down forever by the election of Governor Washburn, and the defeat of the Reformed Constitution. That was the public opinion of Boston a year ago, and to that opinion Judge Loring yielded when he sent back Anthony Burns in violation of law and evidence. Both Mr. Dana and Mr. Huntington have defended him on this very ground, maintaining that he acted, or at least thought he was acting in harmony with the true sentiment of Massachusetts in surrendering Burns to slavery.

But we must close. We have already given more space to the consideration of the Message than its character deserves, and shall conclude with giving a specimen of its facts and another of its logic. Here is the fact. Speaking of the Fugitive Slave Act of 1850, Mr. Gardner says:—"It must be remembered that five years ago the votes and voice of Massachusetts in both houses of Congress were given to the passage of the very statute under which Judge Loring acted."

What must we think of Mr. Gardner's knowledge of public affairs with such a statement as this before us? With one solitary exception, that of Mr. Eliot of Boston, the votes and voice of Massachusetts in both houses of Congress were given *against* the passage of the Fugitive Slave Act. The Senators from Massachusetts at the time of its passage were John Davis and Robert C. Winthrop. Both of them voted against it. Mr. Davis is dead and Mr. Winthrop is in the retirement to which he was in consequence doomed by the class of men to whom Judge Loring belongs. Of the Massachusetts delegation in the House of Representatives, we repeat, only Mr. Eliot of Boston, voted for the Fugitive Slave Act. The Governor's statement is a plain, downright blunder, and the argument based on it of course falls to the ground.

The specimen of the Governor's logic to which we alluded is the following:

"Would it be more strange if within a few years alien hands should control our State government, and bring this precedent for removing those from judicial office who, in obedience to a law which has but just now received your sanction, should refuse to aid in naturalizing a foreigner in the courts of Massachusetts."

This needs no comment. To the argument that Massachusetts must not remove Judge Loring because the Irish or Germans may get control of the State Government and turn out American Judges, we have nothing to reply.

SPIRIT OF THE PRESS.

FRIDAY MORNING, May 11.

The Advertiser talks of Mr. Gardner in a style somewhat different from that of last fall.

It does not detract from our gratification at this result, that it proves that we were not mistaken in placing confidence in His Excellency. From first to last throughout the discussion of the subject, we have held to the opinion that, the Governor would be found firm in the end. In the first article in which we alluded to the subject, more than three months since, we remarked "We can hardly conceive that Governor Gardner should countenance the measure;" [Daily Advertiser, Feb.9]—and in our latest article, commenting upon the vote of the Senate, we intimated that "the Governor may have the wisdom and the firmness to interpose to prevent the consummation." [April 28.] May a like confidence in the wisdom of our rulers always prove to have been equally well placed!

We regard this decision by Gov. Gardner as of the utmost importance to the Commonwealth in several points of view, and we feel bound to express publicly our unqualified approval of the act, as indicating under the circumstances of the case, a decision of character and a regard for principle, overpowering the trammels of party, in the highest degree creditable to him. The decision is, moreover, sustained in our opinion, by reasons stated in the message which are sound and conclusive, and presented with great clearness and ability.

Most men perhaps in his position might have been blinded to the path in which his duty called him. We honor him for having so clearly discerned it, and for his independence in pursuing it.

The Atlas delights in Mr. Gardner's Message, "whatever may be its influence upon his future political fortunes."

The arguments of Governor Gardner are those which have been often repeated, and often in these columns. They are stated in the Message accurately and methodically, and their force is irresistible. In coming to a praiseworthy conclusion the Governor has resisted, we believe, unusual and pertinacious importunities—has disregarded, we know, reitcrated and unworthy threats. He has refused to yield to partisan clamor, and has firmly exercised that power which the Constitution gives him. We believe that he will be sustained in this by the law abiding as well as the liberty loving citizens of Massachusetts. We believe that he has pursued a course upon which he can look back with unalloyed satisfaction, whatever may be its influence upon his future political fortunes.

The Bee refers to Mr. B. as a leading Anti-Slavery man. Mr. B. will not thank the Bee for it.

It is only necessary to state that the "public sentiment of the State," and the "demands of justice and sound policy," *do* uphold the Governor, as do also not a few leading anti-slavery men, such as Richard H. Dana, Hon. Mr. Banks, and others.

The Courier chimes in.

Governor Gardner performed an act of conscience and independence yesterday, which, though it may for the moment injure him in the opinion of the Free Soil majority which controls the action of the present Legislature, will rebound to his honor and to the credit of his understanding hereafter, and may be the brightest mark upon his political escutcheon.

The message is somewhat prolix, and the Governor probably has not had time to condense his reasoning into the form in which he might have presented it, if he had further space for consideration. But as he has arrived at the right conclusion in the end—as he has warded off this insidious blow at a member of the State Judiciary,—as he has dared to rebuke the radicalism and fanaticism which now sit in the high places of the State—he will receive the thanks and responses of every right-minded man in the Commonwealth.

The Journal gives Mr. Gardner great credit for his self-immolation.

Governor Gardner has displayed more firmness—more independence of character and sound judgment—than we have given him the credit of possessing, in refusing to remove Judge Loring at the demand of the Legislature composed of a majority of his own friends. He has interposed a barrier to preserve the independence of the Judiciary, and even those who have been most violent and fanatical in their efforts to secure the removal may find cause hereafter to thank him for this noble act.

LEGISLATIVE.

[By the *Telegraph* Reporters.]

FRIDAY, May 11.

SENTTE

Met at the usual hour. Prayer by the chaplain

The bill to incorporate the town of South Plymouth was passed to be engrossed.

Mr. HALL of Plymouth presented an order to the effect that the governor be requested to lay before the Senate the register in which the resolves of advice from the Council, are recorded since the first of May.

Messrs. PEIRCE of Norfolk, RAYMOND of Middlesex, and MAINE of Suffolk opposed the order.

Mr. RAYMOND of Middlesex moved that the order be laid upon the table.

Mr. WHITE of Norfolk, thought it was plainly the right of the Senate to call for this record, and hoped they would not be frightened from their [illegible]

Mr. WARD of Plymouth favored the passage of the order.

Mr. MAINE denied that the address requested the Governor to consult his council, unless he proposed to remove Judge Loring.

Messrs. ALBEE of Middlesex and ANDREWS of Franklin advocated the passage of the order.

Mr. BARKER of Suffolk, opposed the order, as he could not see what good it would accomplish.

Mr. WRIGHT of Suffolk thought we should not act hastily in this matter, and would like to have the matter laid on the table till to-morrow morning.

Mr. BARKER moved that the yeas and nays be taken on the question, which was agreed to. The vote stood 15 to 15—and the President voting in the negative, the motion to lay on the table was lost.

The vote was then taken on the order, and it was rejected, 15 yeas to 17 nays.

Mr. HALL moved a reconsideration of the vote, which goes into the orders of the day for to-morrow.

[illegible] moved a suspension [illegible]

HOUSE.

[illegible] WHITE

Mr. SLACK of Boston, moved to take up the order offered yesterday by Mr. WARNER of Northampton relative to calling for the records of the council in respect to the removal of Edward Greeley Loring. The motion was agreed to and Mr. WARNER of Northampton took the floor in favor of the order. He had understood that in this case the council were not consulted, and they may be held up in a light in which they may not wish to appear, unless they have an opportunity to show what their views are.

Mr. HUNTINGTON of Northampton, thought the order an unprecedented one. He took occasion to compliment the Governor on the firmness which he has displayed in this matter. He thought this message and the one which he presented to the Legislature at the commencement would compare well with any which have been submitted to any Legislature. He hoped the order would not be adopted, and that the House would sustain the Governor

Mr. DEVEREUX of Salem, also opposed the order with some very forcible remarks.

Mr. WARNER of Northampton, again spoke. He said he alone was responsible for the order, and he was not influenced in the motion by any desire of the Council to exhibit their views.

At 12 o'clock, the special assignment for that hour was postponed to 2 1-2 o'clock in the afternoon.

Mr. Warner then went on with his remarks in support of his order.

Mr. Prince of Essex, favored the order, and based the propriety of its passage on his belief that the Governor did not defer to the Council in the matter, as requested by the address presented.

Mr. Huntington responded that when the Governor declines to remove, agreeably to request, he could not consistently defer to the Council. Had he decided to remove, then it would have been proper for him to ask the opinion and advice of his counsellors.

Mr. Nash of Boston, thought the consideration of one department of the government interfering with another should weigh in this case. He presumed that the sole desire, however, for the passage of the order was to obtain the yeas and nays again on the question. Mr. N. maintained that the Governor could not ask for the advice of the Council unless he had made up his mind to remove.

Mr. Williams of Cambridge, moved the previous question, which, after debate, was sustained.

Mr. May of Roxbury, called for the yeas and nays, but the call was not sustained.

The order was then lost—71 to 150.

Adjourned at 20 minutes to 1, by 114 to 83.

[For the Boston Daily Advertiser]

Salute on the occasion

Guns have been fired on the occasion this day: more out of the glorification of any individual Party, but in honor of the Governor's refusal to remove Judge Loring.

Thursday May 10.

Governor Gardner's Refusal to Remove Judge Loring.—It is not our province to defend Governor Gardner from the assaults of the Evening Telegraph; but we owe it to truth and fairness not to suffer the remarks of that journal in its issue of last evening to escape wholly without notice. The Telegraph says:

"It seems to us, from the Message, that Mr. Gardner does not understand the grounds on which he has been requested to remove Judge Loring; that he is laboring under very strange misapprehensions as to the facts in the case, and that he has not heard, or has not comprehended the arguments that have been used by the advocates of removal and which have carried conviction to the minds of the people and their representatives in the Legislature."

It certainly would be very strange if the Governor or anybody else understood precisely the grounds on which he was requested by the legislature to remove Judge Loring, in view of the fact that the legislature declined stating those grounds, in the belief, which the Telegraph itself shared and expressed, that the members willing to vote for the removal could not possibly be brought to agree on any statement of the reasons. No two of the prominent advocates of the removal agreed in their view of the subject. Any attempt to incorporate the reasons of the legislature into the address would have surely prevented its passage.

The Telegraph has a very easy way of getting over the arguments against the removal so well presented by His Excellency. It does not venture any attempt to answer them. "If eminent lawyers," says the Telegraph, "like Messrs. Dana and Huntington have failed to convince the public that Judge Loring should not be removed, it is not likely that Mr. Gardner will succeed." Perhaps not; but suppose we deny that the eminent lawyers *did fail* to convince the public; that is, suppose we deny that the present legislature, or even "the American party" is "the public." Suppose we claim something for the independent minorities in each house, and something for "the rest of mankind." In view of the claims of these few individuals, it appears to us that the Telegraph might condescend to review the cogent and logical arguments of the Governor, which irresistibly lead from sound premises to his conclusion.

DAILY ADVERTISER.

BOSTON:

MONDAY MORNING, MAY 14, 1855.

Legislative Proceedings in Relation to the Removal of Judge Loring.—In each branch of the legislature, on the reception of Gov. Gardner's late message, a motion was made for a call on the Governor, requesting him to communicate them the resolutions and advice of the Council for the removal of Judge Loring, together with the signatures of the members. The proceedings in both houses on these motions were reported in our paper of Saturday. The motions failed, and there will probably be no official publication of the advice given, or of the names of the members who concurred in it. It was currently reported, and we have not heard the rumor contradicted, that eight members of the Council, including the Lieut. Governor, were in favor of the removal, and two, Messrs. Nelson and Ransom, opposed to it. There is reason to suppose that the opinions of the Counsellors were not formally expressed or registered.

It does not very distinctly appear, from the proceedings in either house, what was the motive for this attempt to obtain the record of the resolutions of the Council on this question. Whether it was the mere impulse of a curiosity to ascertain the opinions of the members of that body, or whether they were desirous of learning the reasons assigned by the Council, for concurring in their own request, for which they had given no reasons, remains matter of conjecture. Whatever might be the motive for proposing the inquiry, it can hardly be doubted that the two houses came to a just conclusion in declining it, as it is not conceivable that the Council, in the absence of any official means of inquiring into the case, were

possessed of any information relating to it, not in possession of the two houses who had actually made such inquiry.

On the other hand, however, while there is no justifiable motive for calling on the Council, under the circumstances of the case, to communicate the reasons of their decision to the legislative branches, who had already made a final disposition of the matter, so far as they had any concern in it; it remains unanswered why the two branches, in presenting to the Governor their request for the removal of Judge Loring, did not accompany it with a statement either of the reasons which in their own opinion justified them in making the request, or of any facts whatever to justify the Governor in complying with it. We are aware that some members of the legislature have argued that the proviso of the Constitution, which confers on the Governor the power of removal on the address of both houses, grants the unlimited power of committing such an act *without any reserve*. But we have seen no attempt to show either that the Governor can conscientiously exercise that power, consistantly with the positive provision to which that clause is annexed; viz:—that "all judicial officers duly appointed, commissioned and sworn shall hold their offices during good behavior," nor that a member of the legislature, who feels bound by his oath of office to obey the Constitution in its true spirit and meaning, can conscientiously request such removal, unless on the express allegation and conclusive proof of some specific reason arising from the act of God, or some other cause which obviously disqualifies the officer proposed to be removed for the discharge of his duty: The reason so specified as the cause of removal, must be such in the mind of the Governor as to satisfy him that it is a disqualification, either corporal, intellectual or moral, of so decided a character as obviously to render the officer unfit for his station. The language is he *may remove*, that is for sufficient reasons, not inconsistent with the preceding provisions. Similar reasons must be presented to the minds of members of the legislature to justify them in making the request. A request without such reasons is therefore a nullity, and it can confer no power on the Governor.

To give any other construction to this proviso, is to assume that the single clause of which it consists has a meaning, not only contradictory to the explicit terms of the preceding portion of the sentence, but that it confers an arbitrary power, entirely out of harmony with every other part of the Constitution—a power vested in the Governor, by a mere mandate, without the forms of trial or even the specification of reasons, to deprive an individual of his rights and the public of an independent judiciary, and this in contravention of the safeguards which it had been the special study of the framers of the Constitution to provide.

The way in which the majority of the legisture in the present case, has construed this proviso, is to assume that their bare request, unaccompanied with reasons to justify it, confers on the Governor the power of removal,—a position which we conceive to be entirely inadmissible; and that the Governor is authorized to proceed upon that request in making the removal, without any official statement of facts to justify it. Had the legislature certified to the Governor the reasons satisfactory to their own minds for requesting the removal, although without any allegation of proofs satisfactory to him of the sufficiency of the reasons, we will not undertake to say that it might not have been within the power of the Governor and Council, to institute an inquiry for determining the facts, in case reasonable grounds of presumption had been shown of the existence of sufficient causes of removal. But such grounds of presumption presuppose the existence of a speeific allegation of a sufficient cause, which may be probably substan iated by satisfactory proof. No such allegation was made in the address of the two Houses, nor does it appear that any such has been brought to the attention of the Governor.

"An Independent Governor."—Under this head the National Intelligencer, a high authority, in its issue of Friday says:—

The telegraph brought us yesterday the gratifying intelligence that Governor Gardner, of Massachusetts, had refused to grant the application of the o Houses of the Legislature for the removal of Ju ge Loring. Trusting that this account is true, the act —so independent, and, under the circumstances, so honorable to the firmness of the Governor—will give him an enviable place in the admiration and esteem of the good and order-loving and law-abiding men of the country, and every part of it. This worthy magistrate, so worthy of his high office, did not share the friendship and the wise and conservative precepts of Daniel Webster in vain, but, "with the unstooping firmness of an upright soul," has proved a true disciple of that great republican and statesman.

[For the Boston Daily Advertiser.]

REMOVAL OF PUBLIC OFFICERS.

The newspapers, generally, are very laudatory in their remarks upon Governor Gardner's refusal to remove Judge Loring from office. This is, I suppose, upon the old principle of "giving the devil his due." But does not his message condemn himself to everlasting shame for the numerous removals from office, which he has made without cause and without any legislative request for removal? Has he not removed upright, estimable, honest public servants, against whom no one could urge a single reproach? Hear this Daniel speak:—

"Let the success of principle, not of party, be our desire—the benefit of the State, not of a faction, our aim. There is no official action that so disgusts a high-mind d nan, as this now necessary practice of removal. I would not be the first to introduce it even in respect to the most unimportant officer."

This is what Governor Gardner says in this hasty message. Compare these sentiments with his practice. Why did he remove that most excellent man the Register of Probate for the County of Suffolk, and so downward, to the holders of the most unimportant offices? Because it is necessary, in his opinion, to the success of his party for the attainment which he has sacrificed all principle;—because it has been done before, in a few cases, by the party which preceded the present one, but whose example would have so thorougly disgusted a truly high-minded man, that he could never have brought himself to a wholesale imitation of it.

If Governor Gardner is correct in saying that the practice of removals from office has now become necessary in this good Commonwealth, then indeed have we fallen from our high estate. Faction will have done its worst, and the public service will hereafter be degraded by officers whose only qualification consists in being good at the trade of small politics.

F.

DAILY ADVERTISER.

BOSTON:

SATURDAY MORNING, MAY , 1855.

For telegraphic and other late intelligence, see first page of the Daily and third page of the Semi-Weekly.

☞ No notice can be taken of anonymous communications.—We must know the name and addresses of our correspondents as a guarantee of their good faith. We cannot undertake to return communications that are not used.

THE EXPULSION OF MR. HISS.—We rejoice for the credit of Massachusetts in the act of the House of Representatives for its own purgation. If the disgraceful proceedings which have recently attracted so much of the public attention had been suffered to stand upon the record, unrebuked and uncensured, in any way, by the legislature, as would have been the case except for the vote of yesterday, the sons of Massachusetts in the future would have shuddered at the blot upon the fair page of our history, a blot which truth would compel the historian to state, the contemporaneous authorities made no attempt to erase. The vote taken yesterday morning after the protracted night session, was the first indication upon the record, of a sense of shame on the part of our legislators for the melancholy conduct which has excited the censure of the public throughout the length and breadth of the State and of the land.

It is for this cause alone that we rejoice at the result. So far as Mr. Hiss is concerned, we entertained no vindictive feelings towards him which craved gratification. The official organ of the State, and of the party which claims to be the State, professes to be shocked "that a public journal, pretending to be respectable, should have so little regard to the proprieties of life, as to express, or even feel an emotion of joy or triumph at the details of the folly and depravity of a weak man, whatever may have been his position as a public character." The Bee obviously cannot understand the difference between a public question and a personal quarrel. We have had no disposition to hunt down Mr. Hiss. His name had been as absolutely unknown and unheard by us, and we presume by the rest of the community, as those of his colleagues in the legislature and in the nunnery committee, until in the due course of investigation, his misdeeds were brought to light. The punishment for those misdeeds must afford cause of gratulation to all who regard virtue and hate vice. It is only wrong-doers who rejoice when the wicked escape unwhipt of justice.

We are not disposed to allow the legislature overmuch credit for this consummation. In accomplishing it, they have simply been the too unwilling agents of their constituents. It has been wrung from them by the indignant voice of the people speaking through the Press, the true index of public opinion and—shall we add?—the conservator of public morals. *Six weeks* precisely elapsed between the return of the nunnery committee from Lowell and the expulsion of the hero of the visit. It was *on the first day* after their return that we printed our first article describing the manner in which that committee interpreted its duties. Thus tardy and reluctant have the representatives of the people been found, to vindicate their own honor, and to respond to the outraged sense of public decency.

We do not forget that there are conspicuous exceptions among the members of the legislature; men who deserve, but do not need, our highest praises; men whose position with us on the side of truth and right their jealous associates must needs publicly ascribe on the floor of the House to thousand dollar fees pretended to have been paid by us to them! The circumstance is significant of the spirit of the age. The relative position of the Press and the Legislature is such, that the former is supposed to bribe the latter to the faithful discharge of its duty!

The two names of Judge Loring and Joseph Hiss ought not to be brought into the same sentence, yet we cannot refrain from remarking upon the singular coincidence by which the same legislative day that witnessed the failure of the fanatical attempt to drive from

office a judge, pure and incorruptible, for no fault whatever, under color of conformity to a pretended public sentiment, also witnessed the actual expulsion for misconduct, of a member of the House from his seat; the legislature, in this case acting in accordance with every dictate of justice and propriety in direct obedience to the indisputable behests of the popular will.

We must add a few words with regard to those members of the nunnery committee and of the companies who accompanied them in their visit and who took part in their proceedings. Let them thank their good fortune for the turn the affair has taken, on account of what the Bee calls "the folly and depravity of a weak man." The legislature doubtless expects the single sacrifice of him alone to appease the people and to save the credit of the State. It is, therefore, fortunate for his associates that his misdeeds so grossly and palpably exceeds theirs, that the sword of vengeance fell on him alone. They were all participators in the offence. They all subverted a public duty into a pleasure frolic; they all indulged in private amusement at the expense of the State. Let legislators beware how they undertake such trifling again.

[For the Boston Daily Advertiser.]

DRUNKARDS AND LUNATICS NOT ALL FOREIGNERS.

We are are at a loss to know whether Governor Gardner meant to include *all* foreign born citizens in his remarks, at the State Temperance Convention, as in his speech, as reported, there is no distinction made, but he is made to speak of *all* those in the community, who were not born in New England, and educated in our schools to religion and morality. These remarks, we think are rather too sweeping. We all know that many of our foreign born citizens are honest and respectable, not given to habits of intemperance, and by no means bordering on lunacy. We must not shut our eyes to the fact either, that the fact of having been educated in *our schools* to *religion* and *morality* is not a sure preventive against crime, of this we have abundant proof. In speaking of foreign born citizens, it is, certainly, only just that credit be given where due, and some charity may be exercised without detriment to the cause of right.

OBSERVER.

WEDNESDAY, MAY 16

to purify her councils and restore her ancient character for constitutional law and sound statesmanship."

[From the Newark Daily Advertiser, May 12.]

GOV. GARDNER AND JUDGE LORING.—It is equally gratifying to the friends of Judge Loring and of Massachusetts herself, that Gov. Gardner has had firmness enough, in the midst of the fanaticism that surrounds him and clamors for a victim, to divest himself of temporary influences and timid promptings to such extent as he must have done in stemming the torrent of legislative proscription, and refusing to remove the Judge from the bench, which he honors by his learning, kindness and fidelity.—The Governor has escaped a great disgrace, and so has the party to which he belongs. All parties indeed but that of the persecutors, are to be congratulated on the result.

[Boston Correspondence of the N. Y. Herald.]

Gov. Gardner and Judge Loring.

The refusal of Governor Gardner to remove Mr. Loring from the office that he holds in our judiciary, will not, improbably, be followed with very important consequences to our politics. It is a mortal grievance to that portion of the American party which has obtained control of the party machinery. They will never forgive him, and they are somewhat remarkable for the pertinacity with which they follow up and run down the men with whom they chance to take offence. He will hardly secure a nomination next fall, or would most likely be defeated if he were to get the nomination. The men with whom he has placed himself *aux prises*, whether he be right or wrong in his conduct, are not endowed with a forgiving spirit, and the power are in their hands to make and to unmake—to elevate or to depress—to bind and to loose. They may be less than the least beyond the bounds of Massachusetts, but within those bounds they are powerful as the enchanter in his ring. Already has it proposed to form a party that shall have for its object the removal of Judge Loring, and the proposition has been favorably received in quarters from which much assistance could be obtained; nor could Governor Gardner look for any help from other parties.

The Whigs hate him as men always hate those who desert them. They see nothing in his conservative action that entitles him to their support He has, in their estimation, only done what he could not have helped doing, if possessed of ordinary honesty. A Whig would have done so; and why should they go out of their party to uphold one whom they look upon as a renegade, the man who headed the crusade against the Whig restoration? As to the Democrats, most of them, excepting the few friends that the administration has left here—a baker's dozen or so—are, for various reasons, in favor of Mr. Loring's removal. It would not do for the administration men to support Gov. Gardner, for he has given unequivocal evidence of his hostility to the "principles of '98," whatever those principles may happen to be. Had Judge Loring been removed, the administration would have provided for him, as it has for Mr. Butman, who has just been given an eleven hundred dollar situation in the customs; but it can do nothing for Gov. Gardner, who has saved Mr. Loring from decapitation. Taking it all round, it must be allowed that the Governor, whatever we may happen to think of the abstract merits of his conduct, has not made a great deal by the operation. He may have acted with the utmost regard for principle, but it is to be regretted that profit and principle, gain and godliness, should have shaken hands and parted so long ago.

The man who is chargeable with having influenced the Governor to the crime he has pursued, to the probable destruction of his prospects, is Millard Fillmore. Mr. Fillmore came here for the express purpose of preventing Mr. Loring's removal, and but for his visit some good "American" would at this moment have been hopefully contemplating the Probateship of Suffolk. Mr. Fillmore's object was not so much to help Mr. Loring as to help himself. He cared less about pressing the Judge in an office that he has, as about getting for himself an office that he wants. Mr. Fillmore's aim is the Presidency. He expects to get it through the aid of the Know Nothings. At this moment he has a better chance of getting their nomination than any other man. The whole Southern branch of the party are for him. He holds in his hands a greater control over the Northern branch than all the rest of the aspirants combined. It was necessary for him to convince the South of his influence at the North, and of his ability to prevent the party from being abolitionized. He came here right upon the heels of Gen. Wilson's last triumph, and dashed it with bitterer drops than the General has been in the habit of swallowing, of late—but bitter is wholesome. The ex-President can take as much credit with his Southern friends, for what has been done here, as his modesty will allow of his doing. The work was certainly of his doing, and no other person's.

ALGOMA

Evening Telegraph.

BOSTON, MONDAY, MAY 21, 1855.

What the Know Nothing Papers say.

The two following articles are from Know Nothing newspapers in the western part of the State:

"Governor Gardner has fulfilled our worst fears in declining to remove Judge Loring at the request of the Legislature. His defence of the position he takes is worthy of consideration, but fails to strike us—as it must many other—as satisfactory. It doubtless gives the Governor's honest convictions, which all, however much they may regret the result, are bound to look upon with respect, admiring his manly independence in standing isolated from his best friends in the performance of a conscious duty.

Judge Loring should have been removed after the proof which has been elicited against him, and the time which has been consumed in the examination of his case. Public sentiment will not rest until the obnoxious individual is removed from a position to interfere with its sense of right.—*Independent American*, Springfield.

JUDGE LORING NOT REMOVED. On our first page we have placed the Message of Governor Gardner, refusing to sanction the Address of the Legislature for the removal of Judge Loring from office. We shall not pretend to question the purity of the Governor's motives in doing as he has done; although we can hardly see the force of his reasoning. All we can say is, that in our opinion he has defeated one of the most rightous measures which ever passed a Massachusetts Legislature—a measure sustained by nine-tenths of the people of the Commonwealth. *Such general feeling of disappointment and regret we never witnessed.* The moral effect, however, of the emphatic censure of Loring by the Legislature will be productive of much good. It will teach the serfs of the Slave Power that the people detest and abhor their servility and meanness, and are fully determined to morally gibbet every creature of them who hence forth dares to lift a finger in the disgraceful business of slave-catching.—*North Adams Sentinel.*

THE GOVERNOR AND JUDGE LORING. We notice in last evening's paper a statement made by the Worcester *Spy*, concerning Gov. Gardner's course in regard to the removal of Judge Loring. The statement, in the truth of which, by the way, we never had the slightest confidence, contained three assertions: 1, that the proposition to give Judge Loring the option of resigning his office as Commissioner, within five days after the passage the address, or being removed from the office of Judgeship of Probate—was made at the request of the Governor; 2, that Governor Gardner, since his veto, has intimated a willingness to remove Judge Loring even now, if that proviso could be introduced into the request for an address; and 3, that after arrangements had been made for adopting this suggestion, his Excellency declined to fulfil his promise, on the ground that he had been misunderstood. The first assertion has been denied by Hon. Mr. Maine, who offered the proposttion, and who says he did it without the knowledge or request of the Governor; and we learn from authority on which explicit reliance can be placed, that the other two statements are both also utterly untrue.—*Traveller.*

The *Traveller* has been imposed upon. The statements are strictly true, and Mr. Maine substantially confirms them, when he says he had reason to believe that his proposition would be more acceptable than the other. No man will venture to deny, over his own signature, the substantial truth of the statements of the *Spy*.

GUBERNATORIAL RECONSIDERATION RECONSIDERED.—The secret history of Governor Gardner's plans concerning the removal of Judge Loring forms a queer story. It is impossible to ascertain with precision the true facts in such a case, but if we are rightly informed, His Excellency had promised to agree to the request of the address, if it should be drawn up in such form as to allow Judge Loring five days' grace in which to resign; the removal to be conditioned upon his refusal to resign. This was proposed as an amendment to the address, but was rejected in the House.

But the opinion that the Governor would agree to an address containing this feature was so strong, that even after his message of refusal was sent in, a few of the eager zealots for the removal prepared such an address, and it was placed in the hands of an honorable Senator who designed to produce it on Wednesday. It would doubtless have passed both houses.

Governors, as well as ladies, however, may "change their minds," and His Excellency availed himself of this privilege. He thought that the executive might indulge in "reconsiderations" as well as the legislative branch of the government. The honorable Senator being informed thereof, retains the new draught of the address in his pocket, and Governor Gardner still continues to wear the never-fading laurels which his message has won.

DAILY ADVERTISER.

BOSTON:

TUESDAY MORNING, FEB. 23, 1858.

COURT CALENDAR.

[Reported for the Boston Daily Advertiser.]

SUPREME JUDICIAL COURT, DEDHAM—MERRICK, J.
Feb. 19 and 20.

William H. Ela vs. U. S. Marshal Freeman, Mayor Smith, Gen. Edmands and Capt. Evans.

We regret that we cannot give a full report of the commencement of the closing argument of Mr. Ellis for the plaintiff on Friday evening, in which he replied to the pleas of Messrs. Hallett and Choate, and sketched the outlines of the case and presented a general view of the testimony. The case he said was of the simplest form, a mere action for assault on the person on June 2, 1854. But the defendants' answers had stuffed it with collateral issues, covering more than a week of time, and their evidence and arguments seemed to suppose that this was a retrial of the cause out of which it chanced to originate, or of the conduct of the many parties connected with it. It was no such thing. These did not belong here.

The cause was presented in a strange unprecedented form. Three years ago, the plaintiff put in all the evidence he then had in Court. The learned counsel for the defendants moved for a nonsuit, and argued the cause at full length. The judge, without hearing the plaintiff in reply, declined so to order, but against the plaintiff's protest that such a disposition was not proper inasmuch as the cause depended mainly on fact, and no distinct points of law to decide the cause could thus be presented, reported the cause for the whole court. On this, counsel had to argue all the law that might possibly be applicable to such a cause. It was here again for trial. Some points had been settled under which he asked a verdict. At the time, 1855, the defendants pleaded the *general* delegation of power now denied, but the allegations bound them; the plaintiff examined the defendants in writing. Their answers are in the case. The defendants had then the legal right, and every possible motive they now have, save that they now see the precise point they must prove, to insert in their answers all facts relevant to the issue. By a change in the law since, the defendants had become competent witnesses, and though the plantiff, must take the printed record of the testimony of his witnesses, and which had been in the defendants' hands for three years just as it stood or not at all, and could not get the witnesses here, for some were dead, some away, and he was not able to keep them here again, and bear the cost of a long trial, the defendants had an unfair advantage in being able to take the stand and revise their own testimony. Their learned counsel had not failed to foresee that something, much, must depend on comparing the defendants with themselves; and electing whether to believe what they now stated they believed, when they had a distinct mark set up to swear at, or what they stated three months after the injury to be the fact without seeing its exact bearing.

One thing especially the jury must remember and duly allow for, namely, the disadvantage under which the plaintiff labored in not being able to have the weight which testimony always gathers from the presence of witnesses to give their own evidence in their own way orally to the jury.

He said that the address of Mr. Hallett had, like the testimony of Smith, Edmands and Evans, been a mere personal vindication. Freeman had not made one, but it was natural that counsel who had earned such honors as the Marshal's attorney had in asserting the extremest powers of jurors in criminal cases, should feel troubled to have been the servant in the greatest encroachments on their rights: and troubled in a civil cause like this to ask the court to become the slave of power as he had been, and throw the sword of justice into one of its scales; and being rebuked in that, to dare to ask of the judge to usurp the exclusive function of the jury in passing upon the evidence. But he neither feared nor asked encroachment on one side or the other.

He replies to the long line of argument to sustain the general purpose and legality of the proceedings of June 2, 1854, and to the assumption that the plaintiff's case rested only on sympathy, prejudice and charity. The right of the master, the precept of the marshal, or the mayor, the acts of May 26, the general conduct of the defendants, were not on trial.

There was no denial of these extremest powers. But the charge was, that in putting that ultimate force in action, the defendants had not kept within the strict line of the law; that thereby the plaintiff had been illegally injured, and it was lawful and fit that the authors of the wrong should respond rather than the actors;—fit, as the defendants were indemnified by the city and the government, that the injuries done to this individual in the exercise of power for public necessity, should be paid for by the public.

He expected, he asked nothing, unless, and only so far as, in any action, he proved a wrong done him by the common rules in the simplest form. The answers and the arguments of the defendants were filled with collateral matters. They all assumed that if the defendant was injured he should not recover because it was by the agency of that power, which, turning the Constitution made for liberty against it,—under which that canopy of light is closing down a dark and terrible cloud. If, under the law as now decided, he proved the case by the common rules, he had a right to demand the court and the jury to stand by him against this arrogant, presumptuous, dictatorial power, which, not content to control the policy of state, to domineer in the houses of Congress, and the halls of legislation, dared to show its head in this temple of justice. He called on them to aid his client to stem this tide, which sought to sweep away everything; to stand firmly up against the combined forces of the general and local governments, the popular power, learning and genius, here so strangely combined, in unholy alliance.

The allusions to John Adams, Josiah Quincy, and British soldiers, was peculiarly unlucky for his learned friends. Ten years after that memorable trial, growing out of events that happened on the very spot which was the scene of this catastrophe, the Constitution of Massachusetts declared all men free. Seven years later, the Federal Constitution was established to secure the blessings of liberty. It did, alas, recognize slavery as a local thing. There could, therefore, to the lawyer, be no question what is the true principle, namely, to concede no more than was nominated in the bond, and to sustain firmly every legal right and liberty against all the growing demands of the power which had broken over its barriers long ago; and, so far as in any case like this any such matter could be involved in the rights of one man, through his to defend the people's rights. Their own allusion was the best proof that no other principle was consistent with the history of a government, running back through the long course of British liberties; its hope which was, under the law and in light of the principle of liberty, to go on in the glorious course of progress which for nearly a thousand years, had, (till this generation, without faltering or stumbling,) been pursued; in which if one drop of the blood of the men of whom John Adams and Josiah Quincy, Jrs., were representatives was left in the veins of the people, as it did throb in the hearts of their own children, one in the prime of life, and another in the lingering glory of life's longest day; this people would yet march steadily on. Above all were

these men, and that day in which the living Quincy was born, identified with the assertion of the principle of the absolute subordination of the military to the civil power, as the essential protection of liberty. If, therefore, the plaintiff proved that he was injured by the slightest violation of this rule, it was his legal right to recover, not otherwise.

He made no question of the power of the federa government; should not debate the validity of the fugitive slave bill; had never in this cause questioned it further than so far as concerned the use of these powers in this case; did not deny the power of the Mayor to call out troops; would assume that in calling them out his precept was conclusive; that in the last resort his duty required him to disperse a mob for whatever cause assembled, with the ultimate force, but asked the verdict simply that the proper legal course had not been pursued. For some cause, with what intent is not material, these defendants had united in passing the lines of the law to the plaintiffs injury.

The powers were restricted to "*lawful orders*," and "*reasonable and necessary acts.*" The Mayor could not practically put the city, or part of it, under martial law. Under statutes which provided that in case of actual riot the Mayor could only act in conjunction with another magistrate, and only after public proclamation, made to allow the guilty a chance to repent; and the innocent to sever themselves from a mob, and only after such proclamation could the mob be fired upon; it was simply absurd to say that the Mayor alone could, days before, put the General in absolute command with discretionary power to fire on the crowd, innocently gathered, and not warned to disperse; and that it was not less illegal to give him any discretion, or delegate any power conducing to this injury; and on proof only of such illegal injury he sought or expected a verdict.

On Saturday, Mr. Ellis continued his argument, of which we give a summary sketch. He said, that at the hour of parting the evening before, he had done little but to clear away the rubbish and prejudices with which the defendants had encumbered the case, and show that for the plaintiff he only asked for justice under the law as laid down by the court, viz.: that "*the military, when called out by the Mayor, could not act independently of the civil authority: must be subject entirely to the absolute and exclusive direction and control of the civil officers, as to the specific duty they were to perform; and that the magistrate could not delegate his authority to the military force which he summoned to his aid, or vest in the military authorities any discretionary power to take any steps or do any act to prevent or suppress a mob or riot.*" He had the testimony of his brother opposite that what he had said was necessary and legitimate. On review of their arguments, he found he might have said much more. He was glad we had slept on the case, and were now prepared calmly to consider the law and the evidence.

The actual assault was proved by ten witnesses: the extent of the injuries by ten more. It appeared that on June 2, 1854, the plaintiff was in perfect health and strength; of remarkably clear and strong mind and memory; and was then brutally beaten and stabbed; nearly killed; incapacitated for business, and enfeebled in body and mind, so that a year ago the physicians advised sending him to the lunatic asylum. One might naturally regard just such an injury to one in the meridian of life and the most elevated position as a greater wrong; but in measuring the damages to the plaintiff, they must agree that for him, just of age, to be struck down, and drag out a miserable existence, feeling life to be a burthen to himself and his friends, was a greater injury than if he had attained the age and the honors of Sumner.

The defence was, that nobody is liable; or at least only those neither morally nor pecuniarily so. In fact, if these were not, none were, for this delay of justice would prove to be its denial, for the statute barred all suits two years ago. But the defendants were all liable, on the common principle that all who procure counsel, command, or take part, nearly or remotely, in illegal acts whereby one is injured, are trespassers; on the same rule whereby in treasons and misdemeanors all are principals; the same attempted to be meted out by Mr. Hallett in some criminal trials growing out of the same transaction, which he should have meted to him again; the same on which all the parties playing at a game of ball in the highway are liable in the action for injuries done to one struck by the ball, by chance slipping from the hand of one of the players; the same whereby the District-Attorney held the tender liable as a slaver, though she never had a slave aboard, in case of the Porpoise; the same whereby Knapp, though 300 yards off, was held as principal; the same which makes all principals in misdemeanors and treasons.

That this was not the independent tortious act of any one soldier or policeman; not the malicious act of individuals, but the natural and necessary consequence of such a force set loose; and that was to have been expected from putting this company of men directly confronting the crowd with fixed bayonets, and loaded with ball; of the same stamp, and caused by the same thing, the uncontrolled passions of soldiers, whom John Adams, in the case alluded to, declared to be "*wretched conservators of the peace, causing two mobs where they prevented one;*" the same with the stabbing of the horse, and the cutting of the man's hand, and the orders to "make ready" on the same spot; and the defence was simply the notorious one of Coke, when charged with assaulting one with a bill-hook, with intent to maim; that *he did not intend to maim the man, but to kill him.* Simply this: no less, no more.

It was not an act "*sporadic*" in the sense in which Mr. Choate now first used in court a word derived from the old Greek poet, and since used by doctors; but a natural effect of a temper aptly to be described as sporadic, as he thought it had been, and should be used, namely, apt to break out at any time.

This case was commenced in 1854. At that time, the defendants, Smith and Edmands, pleaded only general direction given by the Mayor to the General to keep the peace. For months after, Edmands stated, it was debated whether the Mayor could delegate discretionary power to the military. At that time, interrogatives to all the defendants were filed and their answers sworn to. The parties could not then be witnesses. Now all but Freeman had testified.

Though Edmands and Smith now swore that the Mayor did not delegate such power, yet, comparing their present testimony with their answers made three years ago, they must be mistaken and speak from prejudice, not memory. It was said he must make a case of two perjurers. Not so, not so at all. Perjury was rare. He need not impute it, need not prove it. But memory is treacherous; mistakes are common. Prejudice strong. Pride great. Never did witnesses testify with so great an amount of influences pressing upon them, never under circumstances so likely to warp their judgment, and color and distort their recollection.

Mr. Ellis then proceeded to compare the testimony of these defendants with their former answers and writings, to show that they could not be relied on in their present statements, that discretionary power was not delegated, as they contradicted themselves in many essential particulars, and spoke under the most violent feeling and overwhelming prejudice, and merely in self-justification. Each one had at the end of his testimony made what deserved no name but a stump speech. The General had made several. The testimony of Evans was directly contradicted by his own article, written June 12, 1854, in all particulars.

The defendant, the Mayor and the General, had both pleaded only "general directions." The Mayor in his answers in October, 1854, stated that "the instructions both written and verbal to the police were general in their character." In his proclamation, June 2d, 1854, he stated that "Major-General Edmands and the Chief of the Police would make disposition of the respective forces under their commands," and were clothed with "full discretionary

powers;" and Mr. Alderman Washburn was told by the Mayor on the evening of June 1st, 1854, that he had given or should give Edmands full discretionary power, and Mr. Washburn protested that he had no right so to delegate it.

He contended that the general statements of the defendants today, not of facts, but of their state of mind four years ago was not entitled to credit, not that they were corrupt, but they were mistaken and not to be relied on; because of their position and prejudices. He did not know which was the boldest, most absurd or most judicious form in which the defendants' counsel sought to get rid of his clients' own evidence. He had said Mayor Smith had since travelled in foreign lands beyond the great desert and the Red Sea and forgotten and sought to sustain his present recollection by trying to cover what he swore to three years ago with Egyptian darkness. Gen. Edmands had been vindicated as "a man of 'grey hairs and fading memory'" to account for his attempting three explanations of a meeting with the Marshal on May 30, 1854, to which he testified positively that year, but which he now is, at last, sure never took place. He would more aptly describe his memory as growing faster than he grew grey; the older the better. What a prodigy would be his memory when his hairs had all fallen, and he as old as Methuselah. Evans was so flatly contradicted by his own article in the newspaper of June 12, 1854, in which he said not one word of a meeting of his officers to consult about a stratagem, or of not having his guns capped, though it was written only to show he did not mean to fire; said then that the bar was thrown into his ranks, which he now swore he took from the uplifted hand he chanced to cut; then said Boyd gave him no orders, but now swore that Boyd did give orders which he repeated, that his counsel had no resource but to shelter him with his own arm as "his friend, Captain Evans, poor fellow." Mr. Hallett had learned wisdom by their misfortunes, and sought shelter for his client in silence, but it was silence when he was called on to speak.

It would not avail. Such testimony will neither bear the test of law nor of common sense. The waves of time are forever wearing away the structures of memory, overlaying them with a deposit of their own fragments, confused with waifs which the eye sees at glance in passing are from foreign soil, to rise and fall with every tide of prejudice, and shift with every storm of passion that sweeps over them. In view of this the law had barred such actions after the lapse of two years. It is an abuse of the rules of law and evidence, and of common sense to prefer their statements four years old to their acts and declarations on the spot. Setting these aside the other testimony now produced by the defendants goes to confirm the case alleged by the plaintiff, and to put it beyond reasonable question.

The learned counsel have argued long and earnestly that the burthen of proof is upon the plaintiff. He would not debate the question, but accept the task. But the counsel in arguing this had hoped to persuade to another thing, that such testimony could sustain a reasonable doubt, which might safely be left to fall of itself.

There were many illegal acts which would be apparent and might he discussed. He should argue this cause especially on those falling within the range of "*discretionary*" power given to the military, power given by the law to the Mayor, by him unlawfully "*delegated.*" If the Mayor alone had power to clear the streets of Boston and stop its trade for a whole day to the amount of millions of business, if this was a "*reasonable, necessary or proper thing*," he could not gratify the general, or shift off his own responsibility, by empowering *him* to do it. He could not set him with his soldiery that day into the midst of a crowded and great city with full power, "throughout the city," to *aid the police*, either within certain lines or without certain lines, in the General's discretion, but could only at most direct certain specific duties, retaining the control with the civil power; could not give him either in conjunction with the police or alone, power, to arrange when, or how or where to act, according to his discretion; or if any plan had been arranged by him or others, either give the military officers command or discretionary power within the limits of that place; or, when it was varied at the request of the marshal, then, at the very point of danger and in the critical moment, give the general discretionary power; delegate to him, under the Marshal's direction, the command under which the military might be, and in this very case were, on the very spot, in the moment in which the plaintiff was injured, confronted with the innocent crowd of people, a horse stabbed, a man cut, the company of Evans ordered to charge; ordered to "count off," 1. 2: 1. 2., "take open order," "ready"—beyond reach, or control of the Mayor, according to their own judgment or passion in the exigency, and stopped from firing and a trial for murder by the discretion not of the Mayor but of Major Boyd.

It was proved that on the evening of May 26, Col. Cowdin was called out with two companies. Next morning General Edmands, as soon as he could get breakfast, called on the Mayor. The Mayor then gave him a precept to call out only two companies, and Col. Cowdin, though a good soldier, a discreet, solid man, who had been an alderman, was superseded. Yet General Edmands stated that he went to advise the Mayor *not to take volunteers.* On the 30th of May, 1854, the city was still. On that day a despatch was sent to the President, "The Marshal has all the armed posse he can muster: more will be *needed to execute extradition* if ordered. Can the necessary expenses of the city military be paid if called out by the Mayor at the Marshal's request?"

Had the Mayor or the General suggested this inquiry? What evidence was there then of any future disturbance? Who knew Burns was not to be liberated? Why should there be trouble if he were?

On May 30, 1854, the Marshal wrote a note to the Mayor, approved by the District-Attorney, in which he said that "from the assurances of the military officers on duty it was manifest that the force now under Gen. Edmands was not sufficient to preserve the peace of the city," and "earnestly request you, under the views which Major Gen. Edmands has communicated or will communicate to you, if desired, that you will exercise the powers the law has confided to you to place under his command such a body of volunteer militia as will ensure the peace," &c.; and added, "we believe that the expenses incurred by the necessity of such a military force will be met by the President." This proves that Gen. Edmands called out to do one duty, *volunteers* his advice to the Marshal in his aid, and was by him sent to the Mayor to explain his plan. The Mayor did not initiate what was done on his own sense of duty, but by request of the Marshal at the suggestion of the General.

Under his command! Why they request him to do his duty. Did the doing of it depend on pay? Would not the General better have been minding the business for which he had been called out, at his post: or was it for this he volunteered?

On the morning of the same day, May 31, 1854, we have this note:—

City Hall, May 31, 1854.—Gen. Edmands;—after a careful examination of the condition of the City this morning, I feel justified in saying, that one military company will be amply sufficient, till further orders, to maintain order and suppress any riotous proceedings—acting in concert with the police. At 9 o'clock this morning, therefore, you will please discharge one of the two companies on duty, under your command,

Very respectfully, &c.

J. V. C. Smith, Mayor.

On the same day we have this despatch:—

Washington, May 31, 1854.

To B. F. Hallett, U.S. Attorney —Incur any expense deemed necessary by the Marshal and yourself, for city military or otherwise, to insure the execution of the law.

Franklin Pierce.

What law! *The* law. Every man knows.

The same day is another letter, dated May 31, 1854, office of the U. S. Marshal and office of the U. S. Attorney, and signed by both, to the Mayor, in which they send to him the President's despatch, and say:—

"Sir: In reply to your note of this morning we are authorized by the President of the United States to state that any expenses incurred for the city military or otherwise, deemed necessary by the U S. Attorney and U. S. Marshal, to enforce the laws, will be paid by the United States. We deem it necessary, that the avenues be cleared around the court house," &c.

On the same day we have:—

BOSTON, May 31.

To Sidney Webster, Esq.—Despatch received. The Mayor will preserve the peace with all the military and police force of the city. The force will be sufficient.

On the same day the Mayor issued to Gen. Edwards the precept in this case to call out all the troops, and under which they acted on June 2, 1854.

Now, why is the note of the Mayor to the Marshal of this morning suppressed? Where is the second despatch of the President of this date? Why did the Marshal and the Mayor knowing that the President authorized pay for troops to execute the law, the slave bill, assume to contract for a letting and hiring to execute the laws? There is a slight difference betwixt the *laws*, and the law, but as significant as if that *s* embodied all the words to be made of the alphabet. Was the Mayor not to do his duty without regard to pay? Was he not influenced, nay, decided by this request, and did he not let the troops for the plainly stated purpose of executing the slave law for a price. The Mayor, it is said, had due regard to economy. He swore that he learned that the "*boat was* at the T wharf, and told Edmands of it only as a piece of economical intelligence." He should be chosen honorary member of the Royal Society for collecting and diffusing economical intelligence, and instructed to report on the cost of this operation in detail, with an essay on "paying too dear for the whistle." Nervous, timid, pliant; it was, yes and no—a cloud—an elephant—a whale—nothing—an earthquake.

In the evening the Marshal wrote another note:—

The United States Marshal requests that two companies of Light Infantry be on guard for the night, and until further orders. WATSON FREEMAN, U. S. Marshal.

Of this we only know that without any new precept General Edmands did order two companies on duty that night. What duty, and to guard what, we know not.

June 1, 1854. General Edmands issued his precept to his troops, and it is worth noticing as a straw, that in this he directed them to appear *provided with ammunition effectively to carry out the object* of the precept of the Mayor, whilst that of the 27th was according to law to *appear, &c., as for inspection.*

In his written deposition, taken in 1854, General Edmands stated that there was an interview on June 1, 1854, at which were present, besides himself, the Marshal, Col. Dulancy, B. F. Hallett, Esq., and Peter Dunbar, Esq. At this he, after three attempts at explanation, at last states he is confident that the Marshal was not present. Which will you believe? Is this a fading memory or a new growth of his memory? At that interview it was proposed that he should receive the slave into a hollow square and convey him to the wharf. He declined. But the point in debate was only one of military jealousy, the same whereby Cowdin was superseded, and which prompted him to suggest the requisition whereby he should be put in command, viz., that "he would neither put his troops under command of the United States officers nor take command of theirs." Such is his testimony.

In the evening or afternoon, Alderman Washburn was told by the Mayor that he had given or should give the General discretionary power and delegate his authority to him, and he solemnly protested against it. The same evening, (though Smith does not recall it,) one witness saw Freeman and the Mayor go to the Mayor's room, arm in arm. Later in the evening, about 9, he saw them together. He saw Col. Wright, who commanded the dragoons next day, go up stairs. The Marshal and the Mayor did not leave till eleven o'clock that night.

Next morning, June 2d, Ham, Deputy Chief of Police, states that the Mayor was at the City Hall early. The Mayor states before breakfast. At some time, that morning, (the Mayor is quite confident that morning,) the remarkable proclamation was written.

PROCLAMATION.

To the Citizens of Boston:—To secure order throughout the city, this day, Major-General Edmands and the Chief of Police will make such disposition of the respective forces under their commands as will best promote that important object; and they are clothed with full discretionary powers to sustain the laws of the land. All well disposed citizens, and other persons, are urgently requested to leave those streets which it may be found necessary to clear temporarily, and under no circumstances to obstruct or molest any officer, civil or military, in the lawful discharge of his duty.

J. V. C. SMITH, Mayor.

Mayor's Office, City Hall, Boston, June 2, 1854.

The Mayor now remembers, "though he has been beyond the desert and the Red Sea," that there was a debate between him and gentlemen present when he wrote it about the language relative to *discretionary power*, and he did not intend it as it now, as we say, reads. But he can't remember when he wrote it. Nor is any one of those gentlemen, or the printer called, who can. But Hayes stated that he saw it between 8 and 8½ o'clock, on June 2d in print, and we find by their own witnesses that it was posted about and a copy sent to the General on the Common, and with the other precepts read there, and the troops were marched to Court street by 10 o'clock. Printers were early at work or worked with as much alacrity as Edmands showed in this service, or sights of foreign travel have crowded out of the Mayor's memory the time when this was prepared; my brother suggests that to printers night is day; true, but is Friday therefore to the Mayor the day before? But how and why does he remember the circumstance about the *discretion*? It is not consistent. Or, if consistent with the paper, it shows that after the protest of an Alderman, not contradicted by the Mayor or Alderman Drake who was present and has been here, he chose to say to the world and to the General, and to let him say to the troops that he had given to him "*full discretionary power.*" He deliberately took the responsibility. Let him or those who defend him, honestly respond to its just consequences, and instead of the sickening talk of thanking God for what they had done that day, rather pray for forgiveness for having gone an inch further than they must in an unholy work, and thank God that no worse results came from their violations of the law. Alas for the conscience that thanks God for straining the law a hair or stepping one inch beyond it in such unholy work.

At 9 o'clock that morning it is in proof by Hayes, that the Mayor came in and said the Commissioner had entered the court to pronounce his decision and requested Court Square to be cleared and directed it done, though the Mayor now states he had no communication with him.

Meantime the troops are on the Common. The General stated in his deposition in 1854, that he read to the troops the precept of the Mayor and his own precept and orders. And now his fading memory recalls all this which he did not then state though it was vital to his case, responsive to the interrogatory relevant to the issue, and must be used by the plaintiff if he used his deposition, and he could, as now he can, offer himself to supply any deficiency in the proof. He says, "I gave them positive orders, each and every one, to use their best judgment to avoid all collisions, &c., and in case any contingency should arise of a nature which should bring on them the extreme resort, that of firing, to do so with as little risk as possible to life; to fire low; to abstain at all events unless ordered by some superior officer or by the Mayor, to fire by files; to charge with powder and ball; and not to put caps on the nipples."

Considering what was this issue, and what had been the controversy, it would be an insult to debate this testimony. But suppose that imagination had not supplied what faded from memory. The statute directs the soldiery thus ordered out to come armed as for inspection of arms, and forbids them to come loaded with ball unless from necessity and by command. He was not judge of the necessity. He gave no such command in his precept. He was there only as an "arm of the civil power" "under its absolute and exact control," and by the Constitution to be "in exact subordination." He was there, unless the Mayor had given or he assumed illegal power, to obey orders, not to give them. Yet

he did order to load with ball. He ordered "all who might find themselves in detached commands to maintain the portions to which they were assigned." Col. Cowdin testifies that his companies, of which Evans was one, were not ordered to report to him in any exigency. Evans was proceeding to fire. If there be any fading here it is of every color *into* that on which alone his cause can be gained.

The same morning the Mayor sent the General this note:—

City Hall, June 2, 1854.—Gen. Edmands, Sir—The U. S. Marshal informs me officially tha. *he shall be ready to move escort at* precisely half past 12, and you will *therefore govern yourself accordingly.* Please inform him when *all is in readiness.* Very respectfully yours,

J. V. C. SMITH, Mayor.

The boat is at T wharf.

The Mayor recalls no interview with, and had no note from the Marshal, had no notice where the boat was, "chanced," as he says, "to hear it from some one by, and just added it at the bottom as a piece of *economical intelligence.*" Indeed. Is it so? Do we not see more than this memory? Why "*govern yourself?*" Why follow the *Marshal's* motions? Why report to the Marshal, and not to his civil and sole legal superior? What boat? What do they know of T wharf? These six words are more economical intelligence to us than six such memories.

Here we have a programme "drawn up by military gentlemen," as the Marshal states, "*and which I deemed judicious and proper.*" It is dated June 2d, and arranges the details of men moving together military, police, police guard, escort, posse and Marshal, in concert under the control, along the route to be fixed by one man, who, as he swears himself, kept the command of his brass six-pounder, the first gun to be fired, the Marshal of the United States.

I. The escort will consist of the Marshal's *Posse Comitatus.*

II. The line of march and the avenues leading thereto, to be cleared of citizens, and the military and police guards of the city posted, before the escort moves.

III. The police guards to be posted across the side streets at those intersections of the avenues leading thereto, which are nearest State street, and the military guards between the several police parties and State street..

IV. One company of Cavalry to be posted immediately below the Old State House to support the clearing of streets if necessary; then to move from square to square as the escort moves down, preserving the same interval in advance of the escort. A patrol to be kept in front, observing the several cross streets, and on their reports, detachments to be rapidly advanced to any point of danger.

V. The escort to move in the following order, viz:—

1st. Major Ridgely's Artillery Battalion, in posts.
2d. One platoon Marines.
3d. The Marshal's civil posse guarding the fugitive.
4th. Two platoons of Marines.
5th. Lt. Couch's field-piece.
6th. One platoon of Marines to bring up the rear of the escort and form a guard to the field-piece.

VI. A company of Cavalry to be drawn up across Court street and move towards the old State House as soon as the escort shall have passed that building. and take its position as a reserve to the whole force, first at State House and next in rear of the infantry moving down State street—ready to act as emergencies may require.

VII. The military and police detachments to move from the side avenues into State street, as soon as the escort shall have passed the second side street below them, respectively, and gradually move down State street, so as to be within supporting distance should the escort be attacked. These detachments will march by a flank on the sidewalks so as to leave the street open to the advance of the Cavalry, when necessary.

June 2d, 1854.

The Mayor testifies that before June second he gave no orders to General Edmands.

Without orders from the Mayor, the troops are marched down Court and State street. Boyd states that the General sent to the Mayor to ask if he had any orders. He replied, none. The streets are not clear, but full. The military and police together clear them.

Now, though the Chief of Police is called, he can find none of his written orders, though he had them, and was weeks ago requested to produce them. No plan is produced. He is asked of none. Ham, his deputy, who is so exact in his recollection of things four years ago, that when this statement of Hayes made then, viz., "*we were to force the people back on India as far as Milk street, and then hold them to use all means to keep the line, but if we could not, to give notice to the people to take care of their own lives, for the military had orders to fire on the people without notice,*" was read to him, he swore positively that the words without notice were not used; yet swore as positively that he took the printed proclamation, an open paper, from the hands of a man he met, and carried it to the General open, when we have here from the General on the stand the original of the note, folded long, not addressed, a whole sheet, plainly and at last confessedly sent in a long envelope:—

"City Hall, June 2, 1854.

"General Edmands.—Sir:—I herewith enclose a proclamation addressed to the citizens of Boston, enjoining good order and obedience to the laws. With high consideration, I have the honor to remain,

"Your obedient servant, J. V. C. SMITH, Mayor."

The very change in the superscription indicates that he thought he was not addressing his subordinate, but a military commander.

It is in proof then that there was some delay. Gen. Edmands stated in his deposition that "the Marshal sent to him about 2 o'clock to ask why there was so much delay in his receiving notice that the streets were ready for the appearance of his escort. In his present testimony he and Ham state that he was sent for by the Mayor.

Ham, the only one, states what the streets were, which by some plan, part of the question is whose, were to be guarded, naming all on the north and south side of State street. This conforms to the programme.

Edmands states that the Mayor directed him to supply a deficiency of police on India at Milk street with troops, and he did so, also at one or two other positions.

In this state of things it is worth a moment's thought what would have been the effect of all this parade of police and troops thus posted for long hours, had the decision been the opposite of what it was. The decision only determined that Suttle might take his man. The commissioner, as appears by the certificate, pleaded here, chose to put the case under that class in which identity of the person with a foreign record is shown, and which may be without notice or hearing, not under the other class of cases in which after full hearing, the certificate is issued to the Marshal. After Suttle had his own certificate, he must make affidavit, and thereupon a new certificate must be given to authorize him to request of the Marshal this service. The inference is necessary, that as every arrangement was made in the outset for a plan necessary only on the happening of all these things, those who took part in those arrangements knew that all these steps would be passed, and acted in concert for that end; knew, when notified that the commissioner had proceeded to his court, what was to follow; the decision; the certificate to Suttle under § 10 and not to Freeman under § 10; that Suttle would not sell; would make an affidavit; and could not take him off; that Mr. Hallett would give this certificate, and all this happen just as it did. If they can't recollect the past, they can foresee. But I ask, what arrangements were made for a decision for freedom? What if the master thereon chose to seize his man and take him off, and trust to a legal justification. Is it to be presumed all this force could have done nothing, or had the General *discretion?*

In this position of things the escort of the marshal appears in Court square. The General is there. The chief of police and the deputy chief appear. Ham swears he did not march, but he and the chief walked at the head of this body, the police the outer

circle; next infantry; next cavalry: within that a body of police guards; next within that another circle, both armed, as the Marshal says, with muskets, pistols, swords and billies; in the centre, Burns and the Marshal.

In the rear was the six-pounder of the Marshal, to be fired by his express order alone.

Thus this procession moved. The chief of police passed on by Congress, Kilby, Broad, India, the street above and the street below the custom house, and the streets opposite, by Commercial street, quite down to the south side of Long wharf. Ham states that they had orders from the Mayor, and is called, and seems quite willing if he can, to prove a specific plan. Yet he went down below the custom house, away down to the south side of Long wharf. He supposed the procession was to go there, and he was the servant of the Mayor, and the General only a civil arm used to aid him under absolute and exact control of the Mayor. There is a mystery here; something was designed in or near the fortress of the custom house, about the dock between Long and Central wharves, not here appearing, but plain from the only plan suggested here, to post guards at the streets on either side of State, and on India as far as Milk street. There was a change here unknown to the Mayor and the police, well known to the Marshal and Edmands, who arranged and carried it out together.

For, for some cause, by some plan, or in some supposed discretion, before the procession moves, Edmands posts Evans's company on the north junction of Chatham street and Commercial street, and across the lower end of Chatham street, and the upper end of Commerce street; here a new square, unheard of by the police and the Mayor is formed, a new place cleared.

And here, where the crowds came thronging down from the swarming avenues above, to catch the last glimpse of Burns, and the last look at a sight, it is to be hoped they saw, and will not see, and need not see again to remember; here, Ela, led by curiosity, was following along when he is first confronted by a line of Evans's soldiers turning up round the corner of Commerce into Commercial street, and received his fatal injuries.

Of whom did Edmands know of this change in the programme? Who requested him to clear this spot and post men here? Not the Mayor. The Marshal directed him. He who volunteered to suggest the plan; the Marshal adopted and whereby the men of Boston were sold to such service without their knowledge and against the law; must have acted in concert with the Marshal to carry it out. He did so. When the troops reached Commercial street they did not go on as the chief and his deputy supposed they would. They turned into Commercial street; the Marshal followed. They marched through to Commerce street and down Commerce street. This is put beyond doubt, because Ham states that "*after he saw and learned of the change he went back up from Long wharf to Commercial street, fearing it might cause trouble, and found none.*"

But there was trouble—*the trouble on trial.*

It matters not to show that seven times was the Mayor called on or that he was at his office. Ham swears he saw him there all day long, though he seems to have been everywhere else. The Mayor thinks he did not go to dinner, though he spoke of going to his meals; and Washburn "saw him a little while before Burns started, with a little girl at the window of the City Hall overlooking the square, and remained there, but the Mayor left, and he did not see him after, though he should if he had been about;" and Hayes, about ten minutes after the procession moved, "met the Mayor as the Mayor was on his way to the Tremont House." It is immaterial if the Mayor was called on seventy times. At this juncture he was not. At this point, on the extremest ground assumed by the defendants, it appears that if the Mayor did hold the reins all the rest of the way, (as he did not at all, but left them to the General in the service of the Marshal,) they were here held by other hands, or thrown carelessly on the neck of the horse, and he ran away and did this injury. Fortunate indeed that he did not kill many.

It is nothing to this case if the Mayor did all other duties well; if he did not do this aright, and therefore no answer to this case showing a single act of wrong to show that he did right in any number of times; but in the case of the Marshal we show by all this, not a mere request on the Mayor to do an official duty, but we do show nine or more, distinct instances of direct communication betwixt him, the Mayor and the General, relative to this result; and a course of action only consistent with a concerted action, a combinative and coöperation, to be, and actually at last carried out by *this discretionary delegated power to the military commander.*

Let the wrong rest where it belongs, and let them answer rather than the innocent soldiers.

This is on the assumption that the proclamation is only a piece of evidence in a chain of circumstances showing this as a document sent to the General by the Mayor, read by him to the troops; posted by the Mayor to the world, and justly to be regarded as intended as a source of power; it requires no debate. If it was that, and that the Marshal requested and used and coöperated in further than his orders, his duty and the law allowed, and for ends the law of Massachusetts cannot recognize under her constitution, there is an end of the defendant's case, under the decision. Nor can the language of a document, the pleas filed, and the original sworn answers will present a clearer authority. It speaks of authority "throughout the city," "forces under, not the Mayor's command, but *their command.*" Speaks of the disposition of forces to be made by them, leaves to them to judge what is "*best*," says in plain terms "they are clothed with full discretionary power," and in terms too, shows that they are to judge of what it "may be found necessary." It has not one word or tone of the man in power. It put the city under martial law.

This is on the assumption of the defendants that there was a plan originating with the Mayor, specifically ordered by him to be carried out in clearing the streets. But the evidence shows absolute discretionary power, and even with this there was an illegal delegation of power. The Mayor cannot give the soldiery discretionary power to aid the police, without the responsibility of his own supervision and orders, in keeping the peace. The proposition of the defendants is only that the Mayor may clear the streets of Boston if he choose to say a riot is threatened, and then put it under martial law. Let Kanzas say what it is to keep the peace.

Mr. E. then argued that Evans was liable if, as was not denied, in command of the company and directing these movements

He was, however, an actor in the assault, by the testimony of seven witnesses, contradicted indeed by his own testimony. It could not be credited, and instead of trusting to the statement of such a person without calling one of those who struck the blows and who might now be safely and should fairly be called, for the limitation act barred all claim, the defendants should have brought better proofs to meet the proofs of the plaintiff.

On these grounds, on the evidence of a legal injury he asked a verdict, not venturing to say as the defendants' counsel had, that to render a verdict against his client was "impossible" on every note in the compass of his voice; but he submitted that there was a "shadow of a particle" more than "the ten thousandth shadow of a tittle of a particle of proof" for the plaintiff; nay, trusting that the jury would regard their oaths as fully as they had been so often so loudly and pathetically called on to do, he had a right to demand a verdict.

The soldiers were paid for this service, and when counsel say you know Boston slept safe that night, it is true. But that is to the honor of Boston, and not the credit of those men who broke the law. You know the soldiers of Boston served the Marshal and

were paid, and would have refused the service and spurned the pay, had they known of what it was the price. They were bonnd to do their military duty. They ought to do it. The case is, they were used, unlawfully, used to do what was [illegible] and cannot be their duty. The learned counsel [illegible] on his tongue, and I caught enough to catch [illegible] even as his lips trembled and refused for once their duty, that this procession kept step to the music of the Union. There was no music that day to the ears of men. They kept step to the tramp of the Marshal's band.

If the learned counsel could have established their position, as they had not, that the Mayor ordered certain streets to be cleared, the plaintiff was entitled to a verdict on this ground.

Besides, if he had, the question then comes up, was such an order to be carried out by military, armed, loaded, and empowered to fire with ball, *reasonable and necessary?*

Then could the Mayor, antecedently, and only in view of the contingency of an anticipated riot, (he does not *plead* one threatened) in his office and *alone*, give to the military uncontrolled power, to use that ultimate force which in case of actual riot, he can only give on the spot, after proclamation, &c. in conjunction with another magistrate. Is this the constitutional "exact subordination of the military?"

But what if he did and could, suppose he gave such specifically. Within the lines of the ways cleared, who was in command? and with what power? Why, General Edmands; servant of the master or the Marshal, with "full discretionary power"; to sustain the laws of the land indeed, but to act in doing so not with, but without; not under, but above, the civil power. He was there not with troops to be directed by the Mayor when to charge and fire, but to fire and charge, without reporting even to him "to act in their discretion as the exigencies might require;" and on those within the lines who might, like Ela, peaceably meet a file of soldiers to do the bidding of a civil magistrate or a citizen, but set there on a general discretionary, delegated and therefore illegal service.

He had thus argued the evidence, because he desired the jury to vindicate its verdict on the evidence; to rebuke the line of defence; and to demand of one, if one there were of the jury, inclined against the plaintiff by political or other prejudices, to concede what he had conceded.

Neither the natural sympathies nor prejudices of men have place here; but there are legal principles and presumptions which have just weight, and in light of which courts and juries would ever act. In view of these, and so far as these were involved in the cause of this young man, the case which viewed alone was clearly proved, stood with impregnable strength. He had not shrunk from discussion of these, but he scorned the imputation of seeking a verdict for sympathy, and hoping to gain one by prejudice. If any man had been half-persuaded by the power of his friend, the head and pride of the bar, in whose breath men swayed like grain in the summer wind, he implored him, and had a right, unless to his fellows he could vindicate his position, not to give this plaintiff another blow by going an inch beyond the law, and refusing to him a verdict to which he is entitled under it.

And now he recurred to the men and the times to which the counsel had alluded, and of whom he had spoken in the outset. Reflect on them till Tuesday. Think on the injury of this young man. Think of parallel cases elsewhere. Think, if the gentlemen and you please, of John Adams and Josiah Quincy. Remember that Christianity is part [illegible] law of the land; that government is to secure the blessings of liberty. Devote tomorrow, the Sabbath; and the next day, the birth-day of Washington, to reflections whether it is not all a mockery, a mockery that the prayer was made just before this trial commenced, that the eternal laws of justice might be secured by the laws of men; consider if there can be any hope for liberty under laws that will not redress such wrongs, and then say if the very principles to which counsel have appealed outside the case do not call to you this young man's simple and clear right becomes yet clearer and sacred in their light, and that in vindicating his cause you are defending yourselves and establishing the state.

HOUSE OF REPRESENTATIVES.

SATURDAY, Feb. 27.—The House met at 10 o'clock A. M. Prayer by the Chaplain.

Passed to be enacted—Act to incorporate the Church Home for Orphan and Destitute Children.

PETITIONS PRESENTED.

Of B. H. Corliss and others of Gloucester, for an act of incorporation as an Insurance Company, to be called the Gloucester Coasters' Insurance Company; of Edward Bartlett and 124 others of Plymouth, against the removal of Judge Loring.

Mr. HALE of Boston, presented the following petition of William H. Ela of Boston:—

William H. Ela of Boston, shows that on the second day of June, A. D. 1854, he was lawfully and peaceably passing along in Commercial street, in the city of Boston, when he was confronted by a file of soldiers, and by them and the police cruelly and brutally beaten and severely injured; that it has now been determined by the Supreme Court of the State that the stationing of said troops and the clearing of said streets was lawful, and that said injuries being done by persons acting under lawful orders, the petitioner is without remedy for the injuries by him sustained thereby, at law; wherefore your petitioner prays that some reasonable fit sum be appropriated to aid him, as he was so injured bodily and mentally by said injuries, as to disable him from earning his usual support for himself.

WM. H. ELA.

In presenting this petition, Mr. HALE remarked that the circumstances of Ela's case seemed to be such as to give him a claim upon the consideration of the Commonwealth, apart from any political feelings, and he (Mr. H.) was gratified to be able to state that the case is so regarded by gentlemen of all parties. It is conceded that Ela was assaulted and severely injured in a public street on the 2d of June 1854, by soldiers to whom he gave no provocation. It has been decided that the authorities who placed the soldiers in the street are not responsible for the injuries which he received. He cannot bring an action against the soldiers individually (even if he could discover them) on account of the lapse of time. Yet he has been disabled for life. It seems to be a case, for which there are some precedents, in which the State may well undertake to grant some relief.

Mr. CUSHING of Newburyport, said he had reason to believe that the petition deserved to be considered upon its merits, without regard to political considerations.

On motion of Mr. HALE, the petition was referred to the Committee on Claims.

ORDERS ADOPTED.

[illegible] ordered

HOUSE OF REPRESENTATIVES.

TUESDAY, March 2, 1858.—The House met at two o'clock. Prayer by the Chaplain.

PETITIONS PRESENTED.

Of Samuel May and 52 others of Suffolk County, and A. L. Haskell and 16 others of Chelsea, for the removal of Judge Loring; of the Bay State Steamboat Company, against the petition of the Middleborough and Taunton Railroad.

[As the petition of Samuel May and others, presented by Mr. Andrew, for the removal of Judge Loring, is in form different from any others which have been presented, we print it below in full.]

The undersigned, citizens of the county of Suffolk respectfully represent that in the opinion of the undersigned petitioners, the convenience, welfare and safety of the people require that no judicial magistrate of this Commonwealth should be permitted to perform any function under the act of Congress for the recaption of fugitives from service, or be an officer under the laws of the United States for that purpose. And they therefore pray, that the General Court would by solemn address, recommend to the Governor and Council the removal from the office of Judge of Probate for the County of Suffolk, of Edward Greeley Loring, Esq., a Commissioner of the Circuit Court of the United States for the District of Massachusetts, who has once, by virtue of that office, decreed the delivery of one person in Massachusetts into the hands of a claimant as his slave, and who declares, that it is his duty to officiate in the like capacity, whenever a proper application is made to him for that purpose.

CONSOLIDATION—JUDGE LORING, ETC.

Mr. HALE of Boston, moved a reconsideration of the vote by which the House yesterday laid upon the table the bill concerning jurisdiction in matters of Probate and Insolvency.

Mr. HALE was proceeding to give his reasons for making this motion, when

Mr. CUSHING of Newburyport, raised the point of order that the question was not a debateable one.

Mr. HALE said that he conceived the motion to reconsider as debateable, independently of the character of the question proposed to be reconsidered.

The SPEAKER decided that the point of order was well taken, and he read the following extracts from Cushing's "Law and Practice of Legislative Assemblies," the principles of parliamentary law contained in this work being recognized by the rules of the House, as the standard authority.

Sec. 1272. The second effect of this principle is that the motion to reconsider is debateable, although the question which it is proposed to consider is not. In the debate on the motion to reconsider, the merits of the principal question are usually brought forward and discussed, though it is plain that they are not involved, and that the question is whether the principal subject shall be again considered.

In a foot-note to this section, Cushing says:—

In view of the inconvenience that would be likely to result from allowing debate on a motion to reconsider a question which was not debateable, it has been several times decided in the House of Representatives of the United States that such a motion could not be debated.—[Cong. Globe, VI. 145; same, XX. 463; same, XXI. 831.

Mr. HALE said he should appeal from the decision of the chair for the purpose of having the floor, to explain his opinion, though he should not insist upon the appeal. He argued briefly that the statement in the body of the work laid down the principle that all motions to reconsider are debateable—and the foot-note could not fairly be considered as overriding the text.

The SPEAKER said that in the first quotation, the author was stating what seemed the result or effect of a principle, rather than a principle, and that as the citations in the note were contrary, and were all one way, they seemed to constitute the rule and principle of the work, on this subject, by which the House should be guided.

Mr. HALE then withdrew his appeal.

The question being upon the motion to reconsider, Mr. WASHBURN of Boston, demanded the yeas and nays, which were ordered.

The roll was called, and the motion to reconsider was carried by a vote of 103 to 98.

Mr. ANDREW then moved that the bill be assigned for further consideration at 11 o'clock, A. M.

He then addressed the House at some length in explanation of his position. He thanked the House for enabling him, in behalf of the Committee which reported this bill, to reply to the speech made yesterday by the gentleman from New Bedford, the tendency of which was to place both the Committee and the bill in an equivocal, if not a false position, and which speech, having been followed by a motion in its nature undebateable; he had been precluded from making any reply at the moment. The House had therefore been compelled to vote under its influence. He would say first, for himself and for every member of the Committee who was in favor of the bill, that they were in favor of it upon its merits, and should defend it, irrespective of any relation to the question of the removal of Judge Loring. They had no desire, either to anticipate or to follow that measure, but only that the bill should be heard as early as possible, in order that it might not lose support for lack of time, or by enforced hasty consideration. Secondly, for himself individually, Mr. A. said that his views of the incompatibility of the offices of Judge of Probate and of Commissioner with power to act upon the Fugitive Slave Act, was such that he was compelled to vote for Judge Loring's removal, and that no argument which influenced his mind could be strengthened or weakened, either by the success or failure of any other measure. Thirdly, being conscious that it was impossible for himself to be cornered or reluctant to show his hand on any measure within the range of his public duty, he deemed it disrespectful to the House to do any thing, or to leave any thing undone, on the assumption that their votes could be won or lost, or their honest decision of any great question in the line of their duty, affected by matters of mere caprice and not of judgment. In conclusion, Mr. A. suggested that the Loring Committee would have ample time, and the House would have an opportunity to vote within a week, and therefore his motion would give time for consideration of the bill, and an opportunity for members who desired to consult with their constituents to do so.

Mr. FOSTER of Monson, remarked upon the singular spectacle which had been exhibited in the House today,—the lion of slavery and the lamb of republicanism lying down together; the gentleman from New Bedford and the gentleman from Newburyport indulging in a natural, fraternal hug. He then proceeded to express his opinions upon the general question of the consolidation bill, and the removal of Judge Loring, saying that he should vote for the consolidation bill without regard to any other question, and that when the other question came up, whether it came up before or afterwards, he should vote for that measure also. He was in favor of keeping this bill in its proper order, however, and of disposing of it.

Mr. WELLS of Greenfield, next spoke. He expressed himself as being in favor of keeping the questions entirely distinct. He had no fear of meeting the question of removal, and had no belief that the Governor had, as had been intimated, any desire to evade the question.

Mr. CUSHING of Newburyport, asked if the gentleman spoke by authority.

Mr. WELLS replied that he did not, but he stated his belief in the matter, gathered from his knowledge of the Governor, who, he had no doubt, would meet this question, as he meets every question, with boldness and promptness. He continued, and said that when the question comes up, no power can prevent the Legislature from removing the Judge. They will meet it whenever and wherever it may arrive. For his own part, certainly, he had no design to evade the question. He was in favor of the removal, and his constituents were also, with unanimity, in favor of the same measure.

Mr. PITMAN of New Bedford, defended his course last evening. He disclaimed entirely any intention of reflecting upon the chairman of the committee which reported the consolidation bill, or of cutting off debate last evening. He did not make the undebateable motion. In reply to the remark of the gentleman from Monson, as to the union between himself and the gentleman from Newburyport, he said his constituents knew enough of his anti-slavery sentiments not to suspect him of infidelity to them. Other members might not perhaps stand the test so well. He held in the utmost abhorrence the opinions of the gentleman from Newburyport on the slavery question. Nothing in all that gentleman had said in his speeches, had touched him so much as did the statement that there was a disposition to evade the removal of Judge Loring by the passage of the consolidation bill; and he resolved that so far as he was concerned no such evasion should occur. Notwithstanding the protestations which had been made, he had reason to believe that there was yet some danger of such an attempt at evasion. He by no means lacked confidence in the Governor; he had confidence in him on this as on other questions; but it was within his own knowledge that more than one member of the republican party in the legislature had expressed the opinion that it was desirable to get rid of the question of removal. He did not believe it true that there were no men who wanted to dodge. It is not for the honor of the republican party that this question should be evaded.

Mr. MORRILL of Fall River, moved the previous question.

Mr. CUSHING of Newburyport, asked for the yeas and nays on this question, as it would, if adopted, bring the House to a direct vote on the consolidation bill.

The SPEAKER said that such would be the effect of the vote.

The motion for the previous question was then rejected by a vote of 3 to 186.

Mr. PARKER of Worcester, replied to the remarks of the gentleman from Monson, reminding that gentleman that some weeks ago he had voted, in company with the whole democratic party of the House, on the question of granting the hall of the House to the Anti-Slavery Society. He then spoke at some length on the general question, protesting against any attempt at evasion of the Loring question, and reflecting somewhat upon the course of the Senate. [In the course of his remarks, Mr PARKER used some expressions towards the gentleman from Monson, which were retorted by that gentleman at a subsequent stage, whereupon Mr. PARKER rose and expressed his regret that he had used the language, and apologized for so doing. His apology was readily accepted.] Mr. P. closed by moving that the bill be assigned for Tuesday the 16th inst.

Mr. YOUNG of Boston, spoke against the removal of of Judge Loring.

Mr. VOSE of Springfield, spoke on the various questions which had been brought into the debate. He denied emphatically that there was any intention on his own part or on the part of the House, to evade the question of Judge Loring's removal. He did not believe there was a man who desired to evade it. He had no doubt whatever that the Governor was ready to meet the question. For his own part, if the address for removal should be put on the same ground as last year, he should be compelled to vote against it.

Mr. PITMAN expressed the hope that the House would vote for the motion to postpone the bill one fortnight.

Mr. ANDREW again spoke. In relation to the discussion which had taken place on the question of the Governor's views, Mr. A. said that the Governor when he took the office, had had two years' notice

The question then recurred on the motion (made by Mr. SPOFFORD of Newburyport, yesterday,) that the bill be laid upon the table. And the roll being called, this motion was agreed to by a vote of 101 to 99. So the bill was laid upon the table.

Mr. ANDREW of Boston, then moved that the bill be taken from the table.

Mr. PITMAN of New Bedford, raised the point of order that this motion could not be now made, no business having intervened since the bill was laid upon the table

Mr. ANDREW then moved an adjournment, which was rejected. He then renewed his motion to take the bill from the table.

The yeas and nays were demanded and ordered on this question, and the motion was agreed to by the following vote:—

Yeas 102. Nays 98

absent 24

HEARING ON THE PETITIONS FOR THE REMOVAL OF JUDGE LORING.—Yesterday morning the Joint Special Committee of the Legislature, to whom were referred the petitions for the removal of Judge Loring, gave a hearing in the Representatives' Hall. But a small number were present besides the Committee and those immediately interested.

Wm. Lloyd Garrison, in behalf of the petitioners, made a statement of the reasons why it was not necessary now to reöpen the discussion of the case. The Legislature has twice by their vote declared that Judge Loring should be removed, and the popular will, though reluctantly, has been expressed in concurrence; and this popular measure has only been thwarted by the arbitrary veto of a Governor. No new light could be thrown on the case. The memorial was signed by William Lloyd Garrison, Jackson Theodore Parker, Wendell Phillips, and others.

Aaron Bradley, Esq., (colored) claimed the right to be heard for the petitioners. His right to speak for them was questioned, and in answer to questions, he said he represented a society for mutual improvement, composed of intelligent white gentlemen, a society which had been organized ten years. After further examination he was allowed to proceed. He was several times called to order, and finally the hearing was adjourned without waiting for a conclusion of his argument.

The following is the communication received by the committee from Judge Loring, in reply to a notice served upon him:—

To the Honorable, the Joint Special Committee of the Massachusetts Legislature, to whom have been referred the petitions for the removal of Edward G. Loring from the office of Judge of Probate for Suffolk County, and the remonstrances against the same.

Gentlemen: I respectfully acknowledge service of the notice addressed to me by your Secretary, and the courtesy with which it offered to me a hearing before you. As I admit the fact which the petitioners allege, I need trespass no further upon your time than to state the reasons for my procedure.

The Constitution is the controlling declaration of the will of the whole people of the Commonwealth, and as such it is, its supreme law. An unconstitutional statute therefore is not *a law;* it is a nullity, and every oath to support the Constitution is an oath to treat such a statute as a nullity.

I have not obeyed the statute of A. D. 1855, chap. 489, because I considered it unconstitutional, as it was held to be in the year of its enactment by the Governor of the State, upon the opinion of the Attorney-General of the State.

By the authority of the people of the Commonwealth, I was sworn as "Judge of Probate for the County of Suffolk," "*to support the Constitution*," and I fulfilled the letter and spirit of that solemn oath, in not obeying a statute which, in my conscientious belief, violated the Constitution.

As the remonstrances against the prayer of the petitioners are rested on public considerations, I have no right to make them personal to myself, or to appear or answer for them before the committee.

I am, very respectfully, your obedient servant,

EDWARD G. LORING,

Judge of Probate for the County of Suffolk.

Boston, March 2, 1858.

HOUSE OF REPRESENTATIVES.

THURSDAY, March 5, 1858.—The House met at 2 P. M. Prayer by the Chaplain.

QUESTION OF LAW FOR THE SUPREME COURT.

The order offered yesterday by Mr. FOSTER of Monson, was taken up. [We republish the order.]

Ordered, That the House of Representatives require the opinion of the Supreme Judicial Court upon the following question:

Whether, in the case of an inferior judicial officer, holding a judicial office under the Constitution and laws of this Commonwealth, whose duties the legislature may prescribe, or alter, whose compensation they may from time to time determine, and whose office they may abolish, it is competent for the legislature, in order to secure the better discharge of his official duties, to require by law the specific appropriation of any time to the duties of his office, or to prohibit his engaging in other occupations, or holding other offices which, in their judgment, would be incompatible with the proper discharge of those duties.

Mr. SPOFFORD of Newburyport, inquired of the mover whether there was any case before the House, to which these questions were intended to apply, or whether the case made up for the Supreme Court is merely a suppositious one.

Mr. FOSTER replied that he had reason to believe there were several cases in the Commonwealth, which rendered the enquiries pertinent and important.

Mr. DUNCAN of Haverhill, hoped the order would not pass. He objected to putting a supposititious case to the Judges of the Supreme Court, or to reaching their opinions by any indirection. Everybody understands that the order refers to the Personal Liberty Bill and the question of Judge Loring's removal. Let us meet the question fairly. Let us not draw the Supreme Court into the vortex of party. The answer of the Court, whatever it may be, will not be satisfactory, and will not, if put in proper form, settle anything. The subject is a grave one, and would require discussion by a full bench. We hope soon to adjourn, and this proceeding will be likely to postpone the time of adjournment.

Mr. FOSTER, (after suggesting as a reason why the gentleman from Haverhill differed from him in opinion certain mental peculiarities or states of mind) quoted the provision of the Constitution which authorises either branch of the Legislature to ask the opinion of the Supreme Court upon questions of law. Shall we not have the benefit of this provision, and of the opinion of the Court on a question upon which there are great differences of opinion. As one who is interested in the question of Judge Loring's removal, he (Mr. F.) had a right to the opinion of the Court. If we obtain it, our path will be perfectly plain. If the opinion is in the affirmative, we have but to perform a plain ministerial duty; if in the negative, then we have nothing further to do with the matter.

Mr. BROWNE of Dorchester said that the constitutional power to obtain the opinion of the Supreme Court was one to be used only in extreme cases. The Court are always reluctant to give opinions on abstract questions, and when given under such circumstances, they have not their proper weight with the public. He regarded this as an improper proceeding. Let the Legislature decide this question for itself. He would like to give the gentleman from Monson an opportunity to escape responsibility, as he seemed to desire, but not in this way. It had been said that certain gentlemen desire a postponment of the question of Judge Loring's removal,

until after the consideration of the Consolidation Bill. He knew nothing of this, but if there is such a design, it will be accomplished by the passage of this order. For his own part, he desired that the House would meet the question on its own responsibility, and without consulting the Supreme Court.

Mr. FOSTER said that he did not desire delay. He would as lief act upon the Loring question as upon the other one first. He had been informed, not by authority, however, that it was probable that the opinion of the Court might be obtained in the course of a week. The judges would probably give it their earliest attention. If, however, after waiting a suitable time, no answer should be given, he would not ask for any delay in the consideration of the questions which it was designed to affect.

Mr. VOSE of Springfield, said he could not concur with his friend from Haverhill. The Personal Liberty Bill, the provisions of which are substantially covered by this order, involves very important questions. There is hardly any question on which there are such conflicting opinions and honest differences. The Supreme Court is the final tribunal to determine the constitutionality of the bill, and whatever its judgment may be, the people will abide by it. It has been inquired, where is the necessity of this order? The removal of Judge Loring is asked for on the ground that he has violated certain sections of the law of 1855. He resists removal on the ground that the law in these sections is unconstitutional and void. It is therefore a practical question as determining the duty of the House in relation to Judge Loring. It is also a practical question in relation to the repeal of the Personal Liberty Bill itself, which subject has been introduced, and is now before one of the committees. The committee must report on this subject, and into the discussion, the question of constitutionality must necessarily come. He had desire to disturb the order of business, and should be in favor of going out of the proper order to the session, in case the opinion should not be received in good season.

Mr. SPOFFORD of Newburyport, thought there was no question before the House of sufficient importance to render it necessary for the opinion of the Court to be asked. It would be more proper to wait until it be determined whether Judge Loring is to be removed by address or by the passage of the consolidation bill, and take the opinion of the Court upon whichever of these measures may be adopted to effect the end proposed.

Mr. PARKER of Worcester, referred to the fact that a proposition was made last year to take the opinion of the Court upon the constitutionality of the Kanzas resolves, but it was rejected by a large majority. We had the same timid men here in 1857 that we have here today. Let us meet the question as legislators, and let the Supreme Court take care of itself. If the Judiciary Committee have been considering the Personal Liberty Bill several weeks, why don't they report on it? Are they afraid to do so? Mr. P. continued his remarks in opposition to the bill, at some length.

Mr. JOHNSON of Abington, opposed the order. It was not intended that the Supreme Court should be consulted beforehand as to the merits of the acts which we are called upon to meet. He opposed the passage of the order.

Mr. HARRIS of Winchendon, also opposed the order. If we present any question to the court, let us present a direct one. He objected to the order, however it might be drawn. He objected also to bringing the Supreme Court into politics. Before the Personal Liberty Bill was passed, such an enquiry might have been proper enough, but now the bill has been a party question, and it is not wise to draw the Supreme Court into politics. He closed by moving the following substitute, though he said he should vote against that even, if it was adopted:—

Strike out all after the word "question," and insert the following:—Whether the 13th or 14th section of the 489th chap. of the Acts of 1855 is mandatory upon persons holding judicial official office at the time of the passage of said act; and if it is mandatory, whether it is constitutional.

The substitute was rejected.

The debate was continued by Messrs. DUNCAN and BROWNE against the order, and Messrs. FOSTER and YOUNG of Boston, in its favor.

On motion of Mr. HARDY of Lawrence, the previous question was ordered.

On motion of Mr. SPOFFORD of Newburyport, the yeas and nays were ordered on the passage of the order, and the roll being called, it was rejected by the following vote:—

The Liberator.

NO UNION WITH SLAVEHOLDERS.

BOSTON, MARCH 5, 1858.

REMOVAL OF JUDGE LORING.

When the petitions for the removal of Judge Loring were first presented to the House of Representatives, they were promptly referred to a Special Committee for joint action on the part of the Senate. For six weeks after this—for some mysterious reason—the Senate neglected to make any reference of the petitions, thus preventing their consideration, until a few days since. This culpable conduct will be matter of inquiry hereafter. On Tuesday forenoon, the Joint Special Committee gave a hearing to the petitioners, pro and con, in the Representatives' Hall. No one appeared on behalf of Judge Loring, but a brief communication was received from him by the Committee, acknowledging that he is violating the law of the State, because he regards the law as unconstitutional.

The following paper was read by Mr. GARRISON to the Committee, as the response of the numerous petitioners for the removal of the Judge.

—

To the Joint Special Committee of the Legislature, to whom have been referred the petitions for the removal of Judge Loring.

GENTLEMEN:

The undersigned, petitioners for the removal of EDWARD GREELEY LORING from the office of Judge of Probate for Suffolk county, respectfully beg leave to submit, in reply to the invitation extended to them to show cause why their prayer should be granted—

That they deem it wholly superfluous to re-open a case which has twice been fully examined in all its bearings, and elaborately argued, before two Committees of the Legislature, upon whose Reports, in the affirmative, the Legislature has twice voted, by a very large majority in both branches, in favor of the object prayed for; and which the popular senti-

ment of this Commonwealth, deep-rooted and unconquerable, demands to be met in a prompt, manly and satisfactory manner, both by the Senate and House of Representatives, and by the Governor and Council. The time has gone by for hesitancy or doubt, for argument or procrastination. Not an additional ray of light can be needed, on your part, to guide you to just conclusions. The subject has been discussed from Barnstable to Berkshire, for the last three years, at every fire-side, in the social circle, in the public assembly, in every newspaper, and wherever men congregate. It requires no repetition of words, no new evidence, but only ACTION, in conformity with the will of the people, expressed through multitudinous petitions from year to year, and by the twice-recorded verdict of their representatives, in General Court assembled.

Twice have the people of Massachusetts had their solemn decree defeated, respecting the removal of Judge Loring, by a Governor whom they have been unwilling any longer to tolerate in office; and they now look confidently to the present Chief Magistrate, that he will promptly comply with their wishes, if requested to do so on the part of this Legislature. They ask that this case may be met upon its merits, and by a direct vote; and not be superseded, or evaded, or jeoparded, by any other question. They regard this as paramount in importance to all other matters now before the Legislature, because it relates directly to the honor, the dignity, and the sovereignty of the State, and to the imperilled cause of liberty throughout the land. It is not a local concern, affecting only the county of Suffolk, but is as broad as the Commonwealth, and full of significance and interest to the whole country. What is to be gained, gentlemen, by resisting what they so strongly demand? They are permanent—official station is easily changed—and they will allow no incompetency or treachery to defeat their irrevocable purpose. If, for the third time, they shall find themselves baffled, their moral indignation will burn with new intensity, and a deeper agitation will follow. Is it desirable to prolong this excitement?

It has been artfully attempted, by those whose sympathies are wholly *Southern* in their tendencies, to excite odium against the movement for the removal of Judge Loring, by representing it as limited to 'a fanatical association.' Let the numerous petitions before the Committee be examined; and it will be seen that those whose names are appended to them touch every rank in life, every variety of calling, and are irrespective of party lines—including a considerable portion of the women of Massachusetts. They represent no anti-slavery organization, but truly indicate the all-prevailing sentiment of THE PEOPLE. It is a popular, not an abolition demonstration.

The grounds on which the removal of Judge Loring is demanded are various, in the public mind, but in the petitions they are narrowed to one single specification, because that admits of no evasion, and relates to the sovereignty of the State, and to the enforcement of its laws. It is as follows:

That by a law passed May 21, 1855, by the Legislature of Massachusetts, it was declared—

'No person who holds any office under the laws of the United States, which qualifies him to issue any warrant or other process, or to grant any certificate under the acts of Congress named in the 6th section of this act, or to serve the same, shall, at the same time, hold any office of honor, trust or emolument under the laws of this Commonwealth.'

That in open defiance of this law, and of the voice of the people of Massachusetts, as expressed (without distinction of party) by the action of two separate Legislatures for his removal, but twice rendered inoperative by Executive non-concurrence, Edward Greeley Loring, while acting as a Commissioner of the United States, continues to hold the office of Judge of Probate for the county of Suffolk; thus setting an example of contumacy unbecoming a good citizen, and wantonly disregarding the moral convictions of the people of this State as pertaining to the enforcement of the odious Fugitive Slave Bill.

They, therefore, earnestly pray the General Court again to recommend to the Governor and Council, the removal of said Edward Greeley Loring from the office of Judge of Probate; and thus enforce a wholesome law of the Commonwealth, which it is his declared purpose to disregard, and thereby vindicate the sovereignty of the people of this Commonwealth.

The law here referred to was passed by the Legislature in connection with the Personal Liberty Bill, (a Bill, the adoption of which was hailed with exultation by the friends of freedom throughout the North, and which has given intense dissatisfaction to the 'lords of the lash' at the South,) in consequence of the deep moral repugnance of the people of this Commonwealth to the odious Fugitive Slave Law, which they regard as equally inhuman and unconstitutional; and also on account of the summary manner in which Judge Loring, as United States Commissioner, remanded Anthony Burns back to chains and bondage, against law and against evidence, to his own disgrace, and to the shame and sorrow of Massachusetts—thereby fearfully endangering the public peace, and bringing this great community to the verge of bloody violence and horrid massacre. While the law forbids no citizen from filling the office of Slave Commissioner, who chooses to act in that capacity, it expressly declares that no person holding any office of honor, trust or emolument, under the laws of this Commonwealth, shall at the same time be a Commissioner of the United States, to carry into execution the Fugitive Slave Law.

Judge Loring has continued to violate this law ever since its enactment, and openly defies the Commonwealth. He will neither retire from his office as Judge of Probate, nor yield up his office as Slave Commissioner. If he had not been apparently lost to all self-respect—if he had had any considerations for the moral convictions and humane feelings of the people of this State—he would long since have voluntarily vacated his judicial position, and given place to some other person, against whom no such aversion existed. This he would have done as an act of magnanimity, and to show that he was not animated by any selfish motive, even though believing that he had faithfully discharged a most unpleasant duty as Commissioner. But his is a contumacious and defiant

spirit. He triumphs over the law, and tramples it under his feet. He declares that he will never obey it, and that he will not only be Slave Commissioner, but Judge of Probate also, any law of this Commonwealth to the contrary notwithstanding.

Gentlemen of the Committee, this is the issue you are called upon to meet, and in reference to which you are to make your report to the Legislature. This is the issue upon which the Legislature itself must act—the Governor and Council also. Either enforce the law, or repeal it. The people will tolerate no repeal, and they demand its execution. Shall they, or a solitary individual, rule the old Bay State? As legislators, of what avail will your enactments prove, if every factious spirit is to be allowed to disregard them with impunity? Vindicate, then, the insulted majesty of the State, give heed to the voice of the people, and thereby confer upon this Legislature and the present State administration lasting honor, secure the public repose, and promote public justice. 'God save the Commonwealth of Massachusetts!'

For the petitioners,

SAMUEL MAY,
FRANCIS JACKSON,
WM. LLOYD GARRISON,
THEODORE PARKER,
WENDELL PHILLIPS,
SAMUEL MAY, JR.,
ROBERT F. WALLCUT,
JAMES JACKSON.

Daily Advertiser March 9, 1858

The Case of Judge Loring.

MAJORITY AND MINORITY REPORTS OF THE JOINT SPECIAL COMMITTEE.

The Joint Special Committee to whom were referred the several petitions for the removal of Edward Greeley Loring from the office of Judge of Probate for the County of Suffolk, have considered the same, and report:

The Constitution provides that "all Judicial officers duly appointed, commissioned, and sworn, shall hold their office during good behavior, excepting such, concerning whom there is a different provision made in this Constitution; provided, nevertheless, the Governor, with consent of the Council, may remove them upon the address of both branches of the Legislature." The exercise of this right in the hands of the Governor and Council, and the two branches of the Legislature, is unrestricted. Any reasons, unless it may be such as are based on misconduct and maladministration in office, which may seem sufficient, will justify removal by address.

In the year 1840, Edward Greeley Loring was appointed Commissioner of the Circuit Court of the United States, "to take affidavits" pursuant to the acts of Congress passed in 1812 and 1817. In 1847 he was appointed Judge of Probate for the county of Suffolk. At that time, under the act of Congress of 1793, jurisdiction in all cases of the extradition of fugitives from service or labor was vested "in any magistrate of a county, city or town corporate." The duties imposed upon a Commissioner at that time, though enlarged by acts of Congress subsequent to 1840, were of such a character that perhaps no valid reason existed why the offices of Judge of Probate and Commissioner of the United States should not be held, and their separate functions discharged, by one and the same person. But by the act of Congress passed in 1850, the jurisdiction in question was transferred to the Commissioners of the United States, and in the language of the act, Edward Greeley Loring, as one of those Commissioners, was "required to exercise and discharge all the powers and duties conferred by this act." This transfer increased the duties and responsibilities of the Commissioner, and so changed their character that the holding of that office became, in the opinion of your committee, incompatible with the holding of the office of the Judge of Probate. A faithful discharge of the duties of the one became inconsistent with the proper discharge, in all cases, with the duties of the other. A single illustration will suggest the conflict which might arise in the exercise of the powers and duties imposed by the two offices. A slave mother dies in Massachusetts, and her children are brought before the Court of Probate for the appointment of a guardian. The Judge of Probate, by the laws of Massachusetts, is for the time their protector and friend, and while the hearing is pending, the same Judge, in the capacity of Commissioner, is called upon to issue a warrant for the seizure as the property of a Southern slave-owner.

Again, the Constitution provides that "the Judges of Probate of wills, and for granting letters of administration, shall hold their courts at such place or places, on fixed days, as the convenience of the people shall require; and the legislature shall from time to time hereafter appoint such times and places." These times and places have been fixed by the legislature agreeable to the wants and convenience of the people. It must be apparent that the assumption or occupation by any Judge of Probate, of any office, whose duties might interfere with the discharge of his probate duties at the times and places thus constitutionally prescribed, is improper, and after due notice, is a sufficient cause of removal. It cannot be denied that a judicial office under the laws of the United States, whose duties are compulsory upon the incumbent, MAY be incompatible with a judicial office under the laws of Massachusetts, whose duties are no less compulsory. Now no limit is to be presumed to the amount of duties to which a commissioner may be called upon to perform. If the discharge of the duties of commissioner were voluntary, under the Act of 1850, the mere occupation of the office might be unobjectionable, but in the language of Judge Loring, in his protest, in 1855, "the duties of Commissioners of the Circuit Courts of the United States under the law of 1850 is imperative upon them," and "an application made pursuant to law to any one commissioner, fixes that duty on him, and after such application he can neither decline or evade it."

It is clear that, even if such applications were rare, they might be made at the very time fixed by the legislature for the performance of his probate duties, and if numerous they might prevent the performance altogether. The fact that during the trial of Anthony Burns such a conflict existed, or compelled Judge Loring, in the discharge of his duties as commissioner, to adjourn the Court of Probate and postpone its business, sufficiently confirm the incompatibility in question.

But the duties of commissioner in connection with the extradition of fugitive slaves are not the only duties which might conflict with the proper discharge of the duties of Judge of Probate. Pursuant to several acts of Congress, passed subsequent to the appointment of Judge Loring as Commissioner in 1840, he is liable to be called to act in cases of extradition of fugitives from justice from foreign countries, and issue warrants and hold preliminary examination, in cases of revolts, mutinies and affrays on shipboard, and a great variety of crimes and offences committed on sea and land within the jurisdiction of the United States. These duties enlarging from year to year, and still farther in constituting the office of United States Commissioner, such an office as cannot, with propriety, be held by a judicial officer under the laws of Massachusetts. When we add to this interference of official duties their opposite and conflicting natures, the incompatibility is the more manifest.

This incompatibility has been long since recognized by the laws of the Commonwealth, and the resolve of successive Legislatures. The laws of 1843, though applicable to magistrates of this Commonwealth in the performance of the duties imposed upon them by the act of Congress of 1793, was clearly indicative of the determination of the people of Massachusetts, that no magistrate or judicial officer should participate in the extradition of slaves. The sentiment and spirit of that law are as clearly violated, whether that participation is had by a magistrate of Massachusetts, as such, acting under the law of 1793, or by a commissioner of the United States acting under the law of 1850, who is at the same time a judicial officer under the laws of this Commonwealth. In conformity with the spirit of this law, the Legislature declared by resolve in 1850, "that the sentiments of the people of Massachusetts as expressed in their legal enactments in relation to the delivering up of fugitive slaves remain unchanged," and "that the people of Massachusetts, in the maintenance of these well known and invincible principles, expect that their officers and representatives will adhere to them at all times, on all occasions, and under all circumstances."

The law of 1855, in a more positive manner, recognized the several principles, and applied it to the condition of things existing in consequence of the law of 1850. In direct contravention of the terms and spirit of this law, Judge Loring now holds the two offices of Judge of Probate and United States Commissioner. Indeed, the whole current of sentiment and law in Massachusetts during the last fifteen years has enunciated the principle that no officer of this Commonwealth shall engage in the extradition of slaves, or occupy any office among whose duties such extradition may be counted. The same doctrine has been endorsed and confirmed by the addresses of two Legislatures to the Goveenor of the Commonwealth for the removal of the Judge who has disregarded and violated it.

For these reasons, in the opinion of the committee, the Legislature is called upon to address the Governor to remove Edward Greeley Loring from the office of Judge of Probate for the County of Suffolk. They do not feel obliged to base the grounds for his removal upon the law of 1855, and indeed to establish the entire validity of those grounds; in their opinion it is not necessary to regard that law, except so far as it is declaratory of the sentiments of the people. If that law is constitutional, it is sufficient to say that its violation is a valid reason for the address. If it is unconstitutional, they hold that the principle so long acknowledged, which dictated its enactment, is also abundant cause and justification.

Ample notice has been given to Judge Loring of the wishes of the people, as expressed through their representatives, and ample time afforded him to respect and yield to them. While Judge of Probate he still holds the office of United States Commissioner, in defiance of the sentiment of the Commonwealth, and his removal by address is the only remedy which the Constitution acknowledges or provides.

Your committee therefore respectfully recommend that the accompanying address be sent to the Governor requesting him, with the consent of the Council, to remove Edward Greeley Loring from the office of the Judge of Probate for the county of Suffolk.

And your committee further recommend that a joint committee, consisting of two on the part of the Senate and five on the part of the House, be appointed to present said address to the Governor.

Here followed a copy of the

ADDRESS

To his Excellency Nathaniel P. Banks, Governor of the State of Massachusetts.

The two branches of the Legislature in General Court assembled, respectfully request that your Excellency would be pleased, with the consent of the Council, to remove Edward Greeley Loring from the office of Judge of Probate for the county of Suffolk.

Signed by Messrs. DAVIS and CORNELL of the Senate, and Messrs. CHURCHILL, STEVENS, PARKER and ARNOLD of the House.

strong party excitement, by men who took counsel of their passions rather than their judgment. It was vetoed by the Governor, but passed notwithstanding by the requisite Constitutional majority. Mr. Clifford, who was at that time Attorney-General, gave his opinion that it was repugnant to the Constitution of the United States; and the undersigned feels justified in saying that it would be so held by any lawyer not warped by fanaticism or party prejudice. That Judge Loring conscientiously considers it to be so, no fair minded man can for a moment doubt. Mr. Clifford was also of opinion that it was repugnant to the laws of Massachusetts.

The undersigned is not a lawyer, and has not had the teaching and training which qualify him to argue Constitutional questions. He can only look at them and deal with them in a plain way; and from his point of view he can only say that, the section of the law of 1855, upon which the petitioners rely, is opposed to the letter, and still more to the spirit, of the Constitution of Massachusetts. It breaks down the wise and important distinction there made between impeachment for official misconduct and removal upon address. The Constitution provides that the Judges may be removed by the Governor and Council, upon the address of both houses of the Legislature; but the undersigned believes that this power was meant to be limited to those cases in which a Judge might be disqualified by mental or physical infirmity for the proper discharge of his official duties, or might have forfeited the confidence of the public by habits of gross personal immorality, and was not intended to apply to cases of official misconduct. The considerations in favor of this view are fully presented by Governor Gardner in his message to the Legislature of May 10, 1855, found in the Acts and Resolves of 1855, and the undersigned begs leave to refer to that document, calling special attention to the recorded protest of the late John Quincy Adams, therein contained, against the exercise of the power of removal in a case of official misconduct.

The undersigned respectfully submits that the removal of Judge Loring, under the circumstances, would be to break down a sacred barrier reared by the framers of the Constitution in defence of the independence of the Judiciary, and to sanction a principle against which every man that has rights or property to protect ought to protest. It is to make the Judiciary dependent upon the public sentiment of the House, whether that sentiment be sound or unsound, reasonable or fanatical. An act is committed, or a relation sustained by a judicial officer, a law is passed saying that by doing that act, or sustaining that relation, he has been guilty of a breach of good behavior, and has given cause for removal upon address. How dangerous a precedent this is! The Supreme Court have decided that the Fugitive Slave law is constitutional, suppose the legislature should enact that by so deciding they had "violated good behavior and given reason for loss of public confidence," (to borrow the clumsy phraseology of the Act of 1855) and the legislature should adopt an address calling upon the Governor to remove that great magistrate, the Chief Justice of that Court, whose inestimable services no words of mine are adequate to set forth, what would be thought of our course? And yet what is the difference in principle between such action and that which the majority of the committee recommend? Let Judge Loring be removed on the grounds set forth in their report, and what becomes of the immortal words of the Constitution, "it is the right of every citizen to be tried by judges as free, impartial, and independent as the lot of humanity will admit."

The undersigned begs also to suggest that the removal of Judge Loring for the causes alleged would be a violation of the spirit of the Constitution of the United States, and a breach of the allegiance which we owe to our common country.

The fugitive slave law, however obnoxious to public sentiment, is yet a law of the land. The Constitution of the United States is the supreme law of the

Minority Report.

The undersigned cannot concur in the report presented by the majority of the committee, or in the conclusions to which they have arrived, and for the following reasons:

In the first place, the petitioners have failed to comply with the provisions of chapter 261 of the acts of 1857, entitled "An Act relating to applications to the General Co- t." They have given the notice required in the first section of the said act, by publishing a copy of a petition in the Boston Liberator, four weeks successively, the last publication being fourteen days before the session of the legislature; but they have not complied with the injunction contained in the fifth section, as to the proof of publication.

Proof of the publication provided for in the preceding sections, and of the service required in the second section of this act, may be made by the affidavit of any printer or publisher of the newspaper in which such publication shall be made, and of the person making such service; which affidavits, and the petitions to which they relate, shall be presented to the General Court during the first ten days of the session.

No affidavit of the publication was made and presented to the General Court during the first ten days of its session. The undersigned respectfully suggests that if such a law have any value, or be of any efficacy whatever, it should be literally and strictly complied with.

But the reasons which have moved the undersigned to dissent from the views of the majority of the committee are not confined to matters of form. The Legislature is well aware that ever since the rendition of Anthony Burns, in June, 1854, a most fierce and unrelenting persecution has been kept up against the Judge of Probate for the county of Suffolk, because while acting as United States Commissioner he took part in the execution of a law of our common country which the Supreme Court of Massachusetts had pronounced to be constitutional. The spirit which prompted this persecution, found its expression in a law of the session of 1855, chapter 489, of which section 14 is in the following words:—

"Any person holding any judicial office under the Constitution or laws of this Commonwealth, who shall continue, for ten days after the passage of this act, to hold the office of the United States Commissioner, or any office under the laws of the United States which qualifies him to issue any warrant or other process, or grant any certificate under the acts of Congress named in the ninth section of this act, shall be deemed to have violated good behavior, to have given reason for loss of public confidence, and furnished sufficient ground either for impeachment or for removal by address."

From the date of the assembling of the present Legislature down to this moment, numerous petitions from various parts of the country have been presented to us, asking for the removal of Judge Loring. The removal is not demanded on the ground of any official misconduct or incapacity, or any want of personal purity and integrity. No petitioner is hardy enough to call in question his professional and personal qualifications for the office he fills. The case might indeed be more strongly put, were it necessary. The undersigned believes that it is the general sentiment of the bar and the public in the county of Suffolk, that Judge Loring, from his legal attainments, his quickness of mind, his patience, and his gentle and courteous manners, is eminently well fitted for the office which he holds. And it is a significant fact that a very small proportion of the petitioners are inhabitants of the county of Suffolk, over whom Judge Loring's jurisdiction extends.

In most of the petitions the removal is asked for on the single ground that he violated the law of this Commonwealth by retaining the office of United States Commissioner, contrary to the provisions of the section we have above quoted.

The law of 1855, commonly called the Personal Liberty Bill, was passed under like influence of land, and the laws enacted under it are binding upon all. Every citizen of Massachusetts is also a citizen of the United States. The laws of the United States can only be executed within the limits of Massachusetts, by citizens of Massachusetts. But here we propose to make the execution of a law of the United States, a case of official misconduct for which we deprive a State magistrate of his office. Let such a rule of conduct be generally adopted by the States of this Union—let them devise ways and means for punishing their own citizens for the crime of being faithful to the Constitution of the United States, and we shall certainly be in a condition to calculate the value of the Union, and the calculation will be a very easy one to make. In view of these considerations the undersigned recommends that the petitioners have leave to withdraw.

Signed by WILLIAM PAGE, of the House.

CONSOLIDATION BILL.

The hour of eleven having arrived, the special assignment, viz: the bill to change the jurisdiction in matters of Probate and Insolvency, was called up. On motion of Mr. ANDREW of Boston, the bill was reassigned for eleven o'clock on Friday.

ORDERS OF THE DAY.

The orders of the day were taken up.

Mr. PARKER of Worcester, moved that the House commence with the consideration of the address for the removal of Judge Loring from the office of the Judge of Probate for Suffolk. As the motion required the vote of two-thirds, Mr. PARKER withdrew it, and moved that the orders of the day be laid upon the table. This was carried. He then moved to discharge from the orders the address for removal and consider it at the present time. This motion was carried.

REMOVAL OF JUDGE LORING.

This matter being before the House, Mr. VOSE of Springfield, moved that the question on adopting the address be taken on Thursday at one o'clock. Agreed to.

Mr. CHURCHILL of Milton, (chairman of the committee on the part of the House) addressed the House at some length in explanation of the reasons which had governed the committee in reporting the address.

Mr. BROWNE of Dorchester, replied, placing his opposition to the address mainly upon the ground that it would infringe upon the independence of the Judiciary, and be a dangerous precedent for the future.

Mr. STEVENS of Lowell, (a member of the committee) defended the report at considerable length.

At the close of his remarks, Mr. CUSHING of Newburyport, took the floor, and the House, on motion of Mr. EVANS of Salisbury, took a recess until two o'clock.

The House reassembled at 2 o'clock.

Mr. CUSHING took the floor, and after thanking the House that it saw fit to take a recess, he said that in opposing the address for removal, his passions did not go with his duty, for in a party point of view, if there was any contingency he should desire, it was that the House might pass this address, and also the Consolidation bill. He regarded, and his party regarded, with equal and impartial indignation, both measures. In a party point of view it would be desirable to see the Legislature plunge into the unfathomable gulf of disunion into which these measures would involve the Commonwealth. But his duty to the Commonwealth required him to remonstrate and to try to prevent the success of these measures. He should not, however, follow in full the arguments of the committee in their report, or of the two gentlemen of the committee (Messrs. CHURCHILL and STEVENS) who had spoken, but his purpose was to put an end, if possible, to that ambiguity which pervades the report, and the remarks of both those gentlemen, especially the gentleman from Lowell. For what reason is this removal asked? For violation of law, or for disregard of some supposed public sentiment? As to the alleged incompatibility of

the offices, it was argued upon imaginary and almost impossible cases. If seriously urged, how can it be proper to pass the Consolidation bill, which imposes upon Judges of Probate various and very important duties distinct from those they now discharge? We may discard this from our minds. The conflict does not exist. We are brought back to the alleged reasons for removal. He desired to separate them, if possible. The first reason is that Judge Loring has violated the alleged sentiment of the State. The report says this, and the gentleman from Lowell dwelt upon it. Mr. C. said that he passed through the hall of the House on the day of the hearing of this question, and he saw two persons, assuming to represent the people. One was Mr. Garrison, a monomaniac, who represents the monomania of negro idolatry, the representative of the foolish men and women, black and white, who are pursuing a career of treason and sedition, the systematic calumniators of the Commonwealth as well as of the Union,—that Commonwealth which, although it has annually passed most violent resolutions against the Union, and has placed upon its statute book one law unconstitutional at least in some of its parts, and has done what it could to trample upon a law of the United States which our own Supreme Court has declared constitutional, has yet been systematically charged by these men with cowardice, because it will not give itself up absolutely to monomania. There was also a poor demented colored man, who gave one the impression of having lost a great blessing when he lost his master. The public sentiment of Massachusetts resolves itself into the opinion of the followers of these men. They do not represent the popular sentiment of the State. They do not represent the republican party; certainly not the democrats, the Americans and the whigs, constituting a majority of the people, who voted against the republican party. But suppose it were otherwise? It is said that the people are sovereign, and when they make a demand they must be obeyed. Not so. One of the muniments of liberty handed down to us is the independence of the Judiciary—independence of the sovereign, independence of the sovereign's caprice; his passion, his sentiment. You are asked to assume that Judges are to depend on the shifting caprice of the sovereign, in the form of popular clamor. But the theory is independence of the sovereign, no matter whether the sovereign is one man or a million of men. He was reminded of the infamous cry, "Crucify him, crucify him." Will not the House say, as even the profane judge said, "what crime has this man done?" Is unpopularity a crime? Who of us has not looked down deluge after deluge of this pretended popular sentiment? The judge is to perform his duties according to law, and not according to popular clamor. It is not enough that we have the unlimited power of removal by address, with or without reasons assigned. We should inquire whether we can rightfully exercise the power. Nobody doubts the power to remove without a hearing or reason, but we ought to assign some cause. Are we prepared to say that the fugitive slave law is unconstitutional, or that the Personal Liberty bill is constitutional? Have we answered these questions? In order to condemn Judge Loring, we are called on to make these assumptions.

Mr. PITMAN of New Bedford.—Is the gentleman willing to say, on his professional reputation, that the 13th section of the Personal Liberty Bill is unconstitutional?

Mr. CUSHING.—I do not say so. I shall say presently what I think about that. The Legislature assumes that this is law without inquiry. The gentleman asks whether I believe the 13th and 14th sections to be unconstitutional.

Mr. PITMAN.—I said the 13th. I do not pretend that the 14th is constitutional.

Mr. CUSHING.—That ground is untenable. There cannot be this distinction. They may be constitutional in themselves, but unconstitutional in relation to this particular case. But I am now arguing that the House should be satisfied that the Judge has been guilty of violation of law. If he has violated law, he cannot be said to be free from the charge of violating good behavior. I do not admit that he has violated law, but I am not now arguing that. Mr. C. next proceeded to speak of the cases of removal by address in the previous history of the State, and to show that John Quincy Adams, protested against this process in case of the justices who had committed misdemeanor in office, and held that they should be subject to impeachment, if they had committed any crime. The House is the grand inquest of the Commonwealth, and it is incumbent upon us if there is probable cause for believing the Judge guilty of violation of law, to deal with him by impeachment and trial. Mr. CUSHING closed by submitting a motion that the report be committed to the committee on the part of the House, with instructions to inquire if Judge Loring had been guilty of any violation of law, and if so to exhibit articles of impeachment, to be carried to the bar of the Senate.

Mr. TILLOTSON of Worcester, spoke at length in favor of the adoption of the addre s.

Mr. PARKER of Worcester, continued the debate. He spoke of the sacred right of petition, and of the character of the petitioners for Judge Loring's removal, vindicating their characters. Monomonia might appear in more than one form, and if there was the negrophobia of the Anti-Slavery Society, another form of negrophobia, equally dangerous and offensive was that of pro-slavery democracy. (Applause, which was checked by the Speaker.) Mr. P. spoke next of the right of removal by address, vindicating it by historical precedents, at length, and quoting Webster, Story and others. He next adverted to the subject of the independence of the judiciary, and said that the safeguards thrown round the process of removal, the requirement of the consent of the Senate, the House, the Governor and the Council, were sufficient to ensure against any abuse. He also vindicated the law of 1855, especially the section which rendered the duties of Commissioner incompatible with those of Judge of Probate, and quoted parallel laws of the general government, and of the State of Virginia. He showed by a citation from the Alabama reports that the case supposed by the committee, when the duties would conflict, was not impossible or imaginary. Mr. P. said he assented to the report of the committee, because that would secure a greater number of members of the committee than any other report, but he would have advocated removal on the ground that the Judge had sat as a Commissioner and remanded Anthony Burns into slavery, and also on the ground that he had violated the law of 1855. If that law violates the law of the country, the time has come when the States must interpret the Constitution for themselves. If this is nullification it is borrowed from the father of American democracy, and is the doctrine of the resolutions of 1798, and also of the democracy of later times. Mr. P., in conclusion, declared that the people demanded the removal of this Judge, because he has set at defiance their will expressed in a law of the State, as well as by taking part in executing an inhuman law.

Mr. ANDREW of Boston, hoped the motion to recommit would not prevail. If it did, it would be assuming that it was incompetent ever to remove by address, or that this is a case to which the power of removal by address does not apply. Neither can be true. It is competent to remove a man from office for reasons which do not necessarily demand impeachment. The preservation of the rights and honor of the people demand this precise remedy. The complaint is not for malfeasance in performing the functions of Judge of Probate. If there is anything against him in that respect, it is incidental to the main charge. The objection is that the people believe it to be inconvenient and unsafe that a man

holding a judicial office under our laws shall also hold an office which imperatively demands of him the performance of functions which are in conflict with the heart and conscience of the people, and in defiance of their declared will, twice reiterated since the statute of 1855. There is no way for the legislature to escape performing its duty, with a regard to its own rights and honor. Judge Loring plants himself on his own private interpretation of the Act of 1855. The people take issue with him. A vast majority of them at the last election, the challenge having been given by our opponents, declared against him, and have decided that this precise remedy ought to be applied. Mr. A. proceeded to show that the incompatability between the two offices was glaring and flagrant, and he said that the time would surely come when the people and the Courts would agree that the process of returning slaves by commissioners, under the Fugitive Slave Act, is nugatory and void. It can have no application here, though it might apply to black men in the slave States, where color was prima facie evidence of a condition of slavery. The Courts will have to decide that it cannot be the law here in Massachusetts, for it strikes at all the rights of manhood.

Mr. HALE of Boston, said that when gentlemen speak of the "power" of the legislature to make this removal, he thought a distinction should be made. No doubt the Constitution in express terms, admits the power of the removal of judges by the governor upon the address of the two houses of the legislature. In the same way the Constitution confers on the legislature in express terms the right to regulate the matter of divorces; but nobody would argue from the possession of this power that it would be just or wise for the legislature to divorce all the married couples in the State, or even to grant by special statute a divorce in a single case. A parent has almost unlimited power over his child; but nobody will pretend that a parent may rightfully flog his child almost to death for no reason, or even for a good reason. In other words the possession of "power" affords no reason whatever for its use in a particular case. And this is not all. The fact that a power is possessed which is arbitrary, unlimited and without restraint, creates of itself a strong reason for great circumspection, caution and moderation in its exercise. Power always implies responsibility for its proper use; and the responsibility incident to the power makes all sorts of guards and restraints. So that the very fact that the Constitution contains no expressed restraints upon the power of removal by address, must create in the breast of every member, under his oath, an earnest desire to act with caution and moderation. The power which is not abridged in words, must be all the more closely restrained by our own consciences and convictions of duty.

Mr. H. next adverted to the reasons alleged for the consummation of this act. The address does not pretend to assign any reason at all; and in this its framers have shown that they possess the wisdom of the children of earth, for they cannot put a reason into words that would satisfy the advocates of removal. But two reasons have been suggested. First, that the personal liberty act makes an incompatibility between the holding the office of Commissioner and that of Judge. Judge Loring has continued to hold both offices since the passage of that act—therefore (it is argued) he has violated law, and should be removed. But this would be, in effect, a removal by statute, a proceeding which nobody pretends is constitutional. It is not any more constitutional because the process is divided into two steps. If the personal liberty act necessitates the removal, then it is plainly a statute which undertakes to abridge the judicial tenure and is unconstitutional. If that act does not require the removal, then it has nothing to do with this matter, and may be left out of view.

Mr. CHURCHILL of Milton, here interposed, citing a chapter of the Revised Statutes which prohibits any judge of probate from acting as counsel in any case brought before him. He asked the gentleman from Boston whether a judge of probate who should violate that law would not be liable to removal by address. [Rev. Stat. Chap. 83 § 26.]

Mr. HALE—I would hold him liable to all the pains and penalties mentioned in the statute for disobedience to its provisions.

Mr. CHURCHILL—No penalty is mentioned in the statute.

Mr. HALE—But the personal liberty act does proceed in its 14th section to make judges liable to removal for disobeying the 13th section—and in so far as it thus undertakes to abridge the judicial tenure prescribed by the constitution, it is unconstitutional. —The only other matter assigned as a reason for the removal, is an alleged inherent incompatibility between the offices of U. S. Commissioner and Judge of Probate which, (it is argued) justifies the legislature in removing a judge who is also a commissioner, irrespective of the personal liberty act. But does this alleged incompatibility really exist? It is said the State cannot afford to allow the judge's time to be occupied with other duties. But his Probate Court is held only once a week and that only for a part of the year; and as Commissioner he has had but one slave case in eight years, and probably never will have another; can it be pretended that here is any inherent incompatibility making it so far impossible for one man to discharge the duties of both offices that the legislature is called upon to interfere by an extraordinary proceeding to relieve the functionary from one of his offices? Surely not. This reason, likewise, falls to the ground; and there is no reason for the removal. It is prejudice that dictates the proceeding. The very fact that the committee cannot put any reason into the address proves this. Reasons can be expressed in language; prejudice is vague and indefinite.

Mr. H. replied to the suggestion of the gentleman from Worcester (Mr. PARKER) that Judge Loring could not be a humane and mild man, on the ground that he permitted Burns to sit in irons before him, by saying that Burns was *not* in irons,—the matter was brought to Judge Loring's attention, he directed the respondent to stand up in court, and it appeared that he was not in irons. I was present (said Mr. H.) and remember the circumstance. Mr. H. added a brief eulogium upon the personal character of the judge, and suggested some further reasons which he said he regarded of a secondary nature, why the removal should not take place. In conclusion, he begged to exhort the House to pause before sanctioning a measure arbitrary in its nature, the exercise of which will very probably be regretted on all sides as soon as the excitements and prejudices of the hour have passed away. Do not be tempted by power! "It is a kind of power," said James Otis to the judges in arguing against writs of assistance, the time of the very birth of American independence, "it is a kind of power which cost one king of England his head, and another his crown!" Let us not abuse our power. To the great republican party he would say, especially, let us not allow that to enter which may break the concord of our ranks. It is true this is not a party measure. For himself, Mr. H. was willing to promise that the decision of this question either way would not destroy his fealty to the great idea of an effective organization for the prevention of the extension of slavery. But it cannot be concealed that the opponents of that organization hope to make this question the means of dividing our ranks. We must learn something from the democrats here. Democratic senators and democratic representatives are allowed to pass bills for internal improvement by two-thirds votes, in spite of the vetoes of democratic Presidents, and they are good democrats still, provided only they will agree to

support the slavery-extension policy of the pa... In like manner we may differ among ourselves, but we will unanimously resist that policy." Yet it is scarcely worth while in a matter of this kind to give weighty cause of offence to the large numbers of voters in Massachusetts, who, while they agree in resisting the extension of slavery, are nevertheless fundamentally opposed to the removal of Judge Loring. Let us all act with composure, moderation and caution, with a studious desire to be free from prejudice or excitement, and duly impressed with the weight of our responsibilities as participators in a novel and unusual exercise of power, against the abuse of which the Constitution provides no other safe-guard than the consciences and the oaths of members.

Mr. CUSHING briefly re-stated his ground, explaining what he deemed a misapprehension of his position on the part of some of the gentlemen who had spoken.

Mr. ANDREW said that the committee have not suggested misconduct or mal-administration in office. It is Judge Loring's violation of the law 1855, which makes him amenable. It may be that he has committed no crime for which he can be impeached, and yet he has done or omitted to do something which renders it necessary to apply this remedy. He has had long and repeated notice, and the people demand that he shall elect which king he will serve.

Mr. SPOONER of Boston, spoke briefly against the motion to recommit.

The question was then taken on Mr. CUSHING's motion, and it was rejected by the following vote:—

Yeas, 44, viz:

Bicknell, Lot W, Weymouth.	Parmenter, Geo W, Bost on.
Blair, Samuel E, Warren.	Parsons, Thomas, Brookline.
Brimblecom, Charles, Barre.	Pattee, Asa D, Boston.
Brown, Russell, C, Cheshire.	Paul, Joseph F, Boston.
Browne, Geo M, Dorchester.	Pray, Lyman, Charlestown.
Cook, Jonathan F, Lee.	Prescott, Bradbury G, Boston.
Cushing, Caleb, Newburyport.	Rich, Otis, Boston.
Draper, A. W. West Roxbury.	Richardson, Benj H, Sudbury.
Farrington, John, Boston.	Riley, Patrick, Boston.
Guild, James, Roxbury.	Ross. Joseph, Ipswich.
Hatch, Samuel, Boston.	Sheldon, Lyman, Webster.
Higgins, Peter, Boston.	Spofford, R S, Jr, Newburyport
Inglee, Edwin, Halifax.	Temple, J. H, Framingham.
Keyes, Rollin W, Somerville.	Thayer, Sam'l. Jr, Blackstone.
Kniffen, Geo W, W Stockbridge.	Walker, Sam'l, Roxbury.
Knox, Charles W, Chester.	Washburn, Cyrus, Boston.
Leavitt, Thomas, Boston.	Wetherbee, Daniel, Acton.
Leland, Laurin, Hollston.	Willard, Paul, Charlestown.
Lewis, Benjamin, Boston.	Willis, Henry, Roxbury.
Makepeace, Wm, Boston.	Wood, Enoch, Boxford.
Marvin, Andrew J, Southwick.	Woods, Robt P, Groton.
Morrill, Jona E, Fall River.	Young, Edward, Boston.

Nays, 130, viz:

Abbott, Joseph W, Lynn.	Howes, Charles, Essex.
Allen, Charles B, Tisbury.	Hyde, Jas, New Marlborough
Allen, George M, Scituate.	Johnson, Daniel U, Abington.
Allen, James, Oakham.	Johnson, Henry D, Upton.
Allen, Wm. H, New Bedford.	Johnson, Sylvander, Adams.
Andrew, John A, Boston.	Kimball, Nathan S, Haverhill.
Andrews, George, Salem.	Kingsbury, Lauren, Needham.
Arnold, Wm F, Northampton.	Kinney, John M, Wareham.
Austin, Eleazar, Salem.	Littlefield, Walter, Jr, Melrose.
Bassett, Zenas D, Barstable.	Lovejoy, John, Lynn.
Bates, Thomas S, Lynn.	McKinstry, J O, Southbridge.
Bates, Wm H, Worthington.	Mann, CyrusS, Stoughton.
Beck, Wm, Boston.	Marble, Aaron H Chadlton.
Bent, John, Chelsea.	Marshall, Wm W, Rockport.
Blanchard, Henry, Marshfield.	Mayo, Ira, Orleans.
Bradford, Wm, Duxbury.	Mitchell, Joseph, Nantucket.
Brooks, Geo M, Concord.	Moore, Jas G, Waltham.
Brownell, Ezra P, Westport.	Morton, Marcus, Jr, Andover.
Burt, Roderick, Wilbraham.	Mudge, John G, Petersham
Bushnell, Gerard, Templeton.	Newhall, Jonathan, Saugus.
Butters, Geo W, Methuen	Newton, Otis, Westborough.
Campbell, Wm C, Conway.	Noble, Nathan K, Cambridge.
Chamberlain, M. N. Chelsea.	Norcross, Amasa, Fitchburg.
Chapin, Marvin, Springfield.	Osgood, Samuel, Sterling.
Chase, Geo. H, Lynn.	Page, Wm, Cambridge.
Chase, Stephen A, Salem.	Parker, Dexter F, Worcester.
Cheney, James E, Holden.	Pierce, Elbridge G, Holyoke.
Churchill, J. McKean, Milton.	Pitman, Robt C, N Bedford.
Clapp, George P, Boston.	Plummer, Sedgwick L, Brighton
Collingwood, J. B, Plymouth.	Porter, Leicester W, Hadley.
Collins, Edward J, Newton.	Ray, Peleg, Nantucket.
Converse, Charles S, Woburn.	Reed, Wm L, Abington.
Cook, Joel, Westhampton.	Renny, Jas, Chicopee.
Davis, Benjamin, Jr., Ware.	Richardson, Henry, Dracut.
Davis, Cyrus A, Ashby.	Richardson, S. W, Franklin.
Denny, Joseph A, Leicester.	Saunders, Wm A, Cambridge.
Dewey, Wm, Gt Barrington.	Scott, Sam'l W, Uxbridge.
Dodge, Thomas, Chatham.	Shaw, Nathaniel, Weymouth.
Duncan, James H, Haverhill.	Shove, Jervis, Dighton.
Dunnels, Amos A. Boston.	Shumway, Eliel, Groton.
Eaton, J. S, South Reading.	Smith, John, Becket.
Edmonds, M. F, Georgetown.	Soule, Thos H, N Bedford.
Edwards, B. Jr., W. Newbury.	Spooner, Wm B, Boston.
Eldridge, M. L, Fairhaven.	Sprague, Franklin H, Boston.
Endicott, Charles, Canton.	Stevens, Geo, Lowell.
Evans, Benj, Salisbury.	Stevens, Isaac, Athol.
Fay, Solomon A, Palmer.	Studley, Luther, Dennis.
Fisk, Pliny, Bernardston.	Taft, Calvin R, Williamstown
Foster, Charles, Taunton.	Tay, Sullivan, Lowell.
Foster, John W, Monson.	Tillotson, O H, Worcester.
Freeman, Rufus C, Plymouth.	Tucker, Charles K, Lexington.
French, Thos L, Watertown.	Vose, Henry, Springfield.
Glazier, Thomas E, Gardner.	Wakefield, L E, Marlborough.
Goddard, Davis, Orange.	Wales, Jonathan, Randolph.
Goodale, Chester, Egremont.	Walker, Amasa, N Brookfield
Green, George, Westfield.	Warren, Rufus E, Grafton.
Hale, Charles, Boston.	Waterman, L C, S Scituate.
Hamson, Thos. D, Marblehead.	Watson, Sam'l, N Bedford.
Hanchett, Franklin, Natick	Wells, Geo D, Greenfield.
Harris, Jacob B, Winchendon.	Wells, S C, Montague.
Hawks, Horatio, Deerfield.	Williams, Geo F, Boston.
Hildreth, Milo, Northborough	Wing, Paul, Sandwich.
Hoadley, John C, Lawrence.	Wood, Albert, Hopkinton.
Holmes, J. H, Rochester.	Woodbury, Simon J, Sutton.
Howard, Horace D, Easton.	Wyman, Abraham G, Boston.

Absent, 65, viz:

Abercrombie, H, Braintree.	Keith, Elbridge, Bridgewater.
Atwood, John W, Chatham.	Kelly, Hattil, N Bedford.
Atwood, N. E. Provincetown.	Lawrence, Edw, Charlestown.
Babson, Fitz J, Gloucester.	Larned, Edw, Pittsfield.
Baxter, John A, Barnstable.	Lewis, Thos H, Wellfleet.
Benchley, Albert L, Worcester.	Marble, Joel, Seekonk.
Bennett, James, Leominster.	Moore, Orrin R, Southampton.
Blaisdell, Josiah C, Fall River.	Morton, Marcus, Taunton.
Blodgett, Wm. W, Pawtucket.	Nichols, Thos G, Freetown.
Boyd, Wm B, Medway.	Patten Robt ... mesbury.
Breed, S P, North Reading.	Pearce, Edw H, Gloucester.
Caldwell, Joseph, Charlestown.	Potter, N, Jr, Dartmouth.
Carpenter, D. Foxborough.	Prescott, Wm C, Salem.
Chapman, Geo H, Chicopee.	Proctor, M, West Cambridge.
Clement, Wm T, Buckland.	Putnam, Francis P, Danvers.
Corliss, Horatio G. F, Lowell.	Rantoul, Robt S, Beverly.
Couch, Paul, N. ridgewater.	Richardson, H N, Attleboro...
Crane, Hosea, Millbury.	Ruggles, E. H. R, Dorchester.
Crane, John, Norton.	Sanderson, H. Q, Springfield.
Curtis, Franklin, Quincy.	Sands, Edward, Boston.
Cushing, Elphalet L, Hingham	Scammel, John S, Milford.
Deblois, Wm, Boston.	Smith, R, South Danvers.
Dodge, Francis M. Beverly.	Sprague, Phineas, Malden.
Faulkner, Horace, Clinton.	Sumner, Andrew J, Milford.
Field, Alden C, Leverett.	Taft, Ezra W, Dedham.
Fielding, Stephen K, Lowell.	Thayer, A, Worcester
Fry, John E, Bolton,	Tinkham, F, Middleborough.
Gordon, Solomon J, Boston.	Tweed, Harrison, Taunton.
Hardy, Wm, Lawrence.	Warner, Geo, Amherst.
Harris, B. W, E. Bridgewater.	Wise, Wm G, Lowell.
Holden, Dana, Billerica.	Woods, Rufus D, Enfield.
Holman, Oliver, Medford.	Woodworth, J S, Worcester.
Jepson, John C, Lowell.	

At ten minutes before six o'clock; the House Adjourned.

BOSTON.

The House of Representatives yesterday adopted the address for the removal of Judge Loring, by a vote of 127 yeas to 101 nays. The debate was continued with spirit until one o'clock, the hour assigned for taking the question. Among the speeches which attracted most attention, was that of the venerable Marcus Morton, ex-governor and ex-judge of the Supreme Court. He opposed the removal of Judge Loring, and voted against it; but he said some things which added strength to the convictions of the opposite and successful side. He said the legislature had full power to make the removal by address; that in his judgment the thirteenth section of the personal liberty act of 1855 is perfectly constitutional; and that the judge was contumacious for refusing to obey it, although not guilty to the extent, in his opinion, to deserve removal. These

statements from so high a judicial authority, had great weight with the House, particularly the remark relative to the constitutionality of § 13 of the personal liberty act of 1855. That section is held by Judge Loring in his answer, and by the opponents of removal generally, to be unconstitutional. It provides that—

SECT. 13. No person who holds any office under the laws of the United States, which qualifies him to issue any warrant or other process, or to grant any certificate under the acts of Congress named in the ninth section of this Act, or to serve the same, shall, at the same time, hold any office of honor, trust, or emolument under the laws of this Commonwealth.

Many members were willing to follow Governor Morton in his opinion of the constitutionality of this provision of law, who did not agree with him in voting against the address.

We report upon our fourth page, in full, the very earnest speech of Mr. Pitman of New Bedford, in support of the address.

The following analysis shows that the question of removal was not made a party test in the dominant party:—

	Yeas.	*Nays.*	*Absent.*
American Republicans	123	36	6
Gardner Republicans	4	28	1
Democrats	0	37	4
	127	101	11

The address now goes to the Senate.

ORDERS OF THE DAY.

The orders of the day were taken up.

The first matter was the address for the

REMOVAL OF JUDGE LORING.

Mr. HOADLEY of Lawrence, opposed the passage of the address.

He was followed by

Mr. MORTON of Taunton, who said that the question seemed to partake of a judicial, rather than of a legislative character. There are two questions involved; first, the right to remove by address; and second, the question whether an exigency has arisen which justifies removal by this process. As to the right itself, there could be no question whatever. The power of keeping the political machine in order, which sometimes involved the necessity of removing obnoxious or incompetent officers, must be vested somewhere, and the framers of the Constitution did wisely in vesting it in the Legislature. The power may be exercised, with or without reason assigned, those who exercise it being responsible only to the people, to their consciences, and to God. They should decide conscientiously, as if they were upon a jury, and proceed with the greatest caution. The process of removal by address, he thought, never was intended as a punishment. If an officer is guilty of any offence, he should be impeached. Removal by address should only be resorted to when the proper administration of the laws, and the public welfare imperatively demand it. It is a process more particularly applicable to cases of mental and moral imbecility, insanity, immoral habits, or anything which shows the officer incompetent to perform the duties of his office, rather than to violation of law. To remove for other causes is an assumption, a legal assumption to be sure, but still an assumption. Mr. M. proceeded to speak of the character of Judge Loring, as being excellent, and to say that he is not complained of for a violation of law connected with the official performance of his duties. It is for an extra-official act. He was not prepared to say that a violation of law, extra-officially, ought not to be taken into consideration. He did not deny that it ought to have weight, but we must bear in mind that in this case, the Judge is not complained of for neglect of official duty. The question arises, is his removal demanded? He had seen no evidence that the people were in favor of his removal. If they were, they ought not to be listened to. He respected the rights of the people, but when a man is on trial before a Court, or before the Legislature, the people have no right to interfere. He remembered when two men were convicted of murder, and when three thousand men petitioned the Governor that they might be executed, but he did not grant their request. There is no evidence, however, that the people are in favor of this movement; on the contrary, he believed that three quarters of them would regret it. The charge against Judge Loring is that he has violated the law of the State. No doubt he had done so, but he did it honestly. Mr. M. said he held the law of 1855, which he has violated, to be constitutional, and that Judge Loring ought to have been bound by it. The Legislature has a right to declare what duties its judges and other officers shall perform. But even if the law is unconstitutional and void, Judge Loring ought to have complied with it, and it was indelicate and presumptuous in him to insist upon violating it. He did not defend his course; on the contrary, he thought he had done wrong. Here, then, is the case, in its length and breadth. A judge, with his eyes open, violates the law of the land, but he does it honestly. Is this violation of law a justification for the exercise of this extreme right of removal by address? Is their any evidence that he would violate other laws? He probably would not repeat the offence. He thought too much of his good sense to believe that he would do so Does the public good, then, require his removal? He thought the present process looked like vindictiveness, and that the people would consider it a sort of savage triumph, not only killing but scalping their victim. It would be better to wait until the Consolidation bill had passed, for that would have accomplished the removal by another method.

Mr. HALE of Boston, rose to make an explanation relative to an observation he made in the course of his remarks on the preceding day. In reply to the suggestion of the gentleman from Worcester, (Mr. PARKER), who said that Judge Loring could not be a mild and humane man because he permitted Burns to sit before him in irons during the hearing, he (Mr. H.) had said that the fact was otherwise—that Burns was not in irons, and when it was suggested by his counsel that the respondent was in irons, Judge Loring immediately directed the respondent to rise, when it appeared that he was not manacled. By recurring to a report which he made and printed at the time, he found his recollection correct in this respect, and moreover that the respondent's counsel, Mr. Ellis, expressed himself at the time perfectly satisfied with the conduct of the Commissioner's treatment of his client, while protesting against that of the Marshal and his subordinates. Mr. Ellis said to Judge Loring, "To the prisoner your honor has granted such indulgence as leaves us nothing to complain of. Of other matters we have reason to complain." After the inquiry about the irons, Mr. Ellis said, "It is all right." But in addition, he would read to the House a letter he had received from Rev. Theodore Parker:—

BOSTON, March 11, 1858.

Mr. Hale, Dear Sir: There is an error in (the report of) your remarks in the State House yesterday. You say "Burns was *not* in irons,—the matter was brought to Judge Loring's attention, he directed the respondent to stand up in Court, and it appeared that he was not in irons. I was present (said Mr. H.) and remember the circumstances."

The last day of the "trial" he *was* in irons, *for I spoke with him, and saw the irons with my mortal bodily eyes.* The next day of "trial" I was not allowed to speak with him, but came near enough to see that he held his hands as if handcuffed ; (I was rudely threatened by one of the officials.) I brought the fact of his being in irons to the knowledge of his counsel, who made complaint to the court; the slave-hunter's counsel made some remarks; Commissioner Loring asked Mr. Burns to stand up. He did so; and had no irons on. But *the officers had taken the irons off while the discussion was going on!* this I knew at the time, or was satisfied of, for one

whispered to the two who sat with Mr. B. between them, and I saw them busy with his hands; and after his subsequent return to Boston Mr. B. told a gentleman of this city that such was the fact. Mr. B. also stated that on every day of the "trial" he was brought into the court-room in irons which were kept on till the court came in, and were replaced when the court adjourned. Yours, respectfully and truly,

THEODORE PARKER.

Mr. H. here remarked that after the evidence here adduced, he presumed it would not be doubted that Burns was ironed, at least during most of the hearing; but it is equally clear that he was ironed without the knowledge or consent of the Commissioner, upon whom an intentional deception was practised, and who was deceived at the time in common with the counsel and many others who were present. Accordingly the circumstances prove nothing against Judge Loring's humanity, but rather the reverse.

Mr. PARKER of Worcester, asked if the gentleman supposed it could be possible that the Commissioner could be decieved upon this point?

Mr. Hale—Certainly.—I was deceived myself, and I do not doubt that the gentleman himself would have been deceived, if he had been present.

[Mr. PITMAN of New Bedford. followed in support of the bill. His speech is printed upon the fourth page.]

Mr. SPOFFORD of Newburyport, occupied the few minutes of time remaining, in an earnest protest against the passage of the address.

The hour of one having arrived, Mr. PRESCOTT of Salem moved that the time for taking the question be postponed until three o'clock. Rejected, 98 to 103.

On motion of Mr. PAGE of Cambridge, the yeas and nays were ordered on the adoption of the address, and the roll being called, it was agreed to by the following vote:—

Yeas, 127, viz:

American Republicans, 123, *viz:*

Abercrombie, H, Braintree.
Allen, George M, Scituate.
Allen, James, Oakham.
Allen, Wm. H, New Bedford.
Andrew, John A, Boston.
Andrews, George, Salem.
Arnold. Wm F, Northampton.
Atwood, John W, Chatham.
Austin, Eleazar. Salem.
Bassett, Zenas D, Barstable.
Bates, Thomas S, Lynn.
Bates. Wm H, Worthington.
Benchley, Albert L, Worcester.
Bent, John, Chelsea.
Blaisdell, Josiah C, Fall River.
Blanchard, Henry, Marshfield.
Breed, S P, North Reading.
Brooks, Geo M, Concord.
Brownell, Ezra P, Westport.
Burt, Roderick, Wilbraham.
Butters, Geo W, Methuen
Campbell, Wm C, Conway.
Carpenter, D. Foxborough.
Chapin, Marvin, Springfield.
Chase, Geo. H, Lynn.
Chase, Stephen A, Salem.
Cheney, James E, Holden.
Churchill, J. McKean, Milton.
Clapp, George P, Boston.
Clement, Wm T, Buckland.
Collingwood, J. B. Plymouth.
Collins, Edward J, Newton.
Converse, Charles S, Woburn.
Cook, Joel, Westhampton.
Couch, Paul, N. ridgewater.
Crane, Hosea, Millbury.
Davis, Benjamin, Jr., Ware.
Davis, Cyrus A, Ashby.
Denny, Joseph A, Leicester.
Dodge, Thomas, Chatham.
Eaton, J. S, South Reading.
Edmonds, M. F, Georgetown.
Edwards, B. Jr., W. Newbury.
Eldridge, M. L, Fairhaven.
Endicott, Charles, Canton.
Evans, Benj, Salisbury.
Faulkner, Horace, Clinton.
Fay, Solomon A, Palmer.
Fielding, Stephen K, Lowell.
Fisk, Pliny, Bernardston.
Foster, Charles, Taunton.
Foster, John W, Monson.
Fry, John E, Bolton,
Glazier, Thomas E, Gardner.
Goddard, Davis, Orange.
Hamson, Thos. D, Marblehead.
Holmes, J. H, Rochester.
Howes, Charles, Essex.
Johnson, Daniel U, Abington.
Johnson, Henry D, Upton.
Kelly, Hattil, N Bedford.
Kingsbury, Lauren, Needham.
Lewis. Thos H, Wellfleet.
Littlefield, Walter, Jr, Melrose.
Lovejoy, John, Lynn.
McKinstry, J O, Southbridge.
Mann, Cyrus S, Stoughton.
Marble, Aaron H Charlton.
Marble, Joel, Seekonk.
Marshall, Wm W, Rockport.
Morton, Marcus, Jr, Andover.
Newhall, Jonathan, Saugus.
Newton, Otis, Westborough.
Nichols, Thos G, Freetown.
Norcross, Amasa, Fitchburg.
Osgood, Samuel, Sterling.
Parker, Dexter F, Worcester.
Patten Robt W, Amesbury.
Pierce, Elbridge G, Holyoke.
Pitman, Robt C, N Bedford.
Porter, Leicester W, Hadley.
Potter, N, Jr, Dartmouth.
Prescott, Wm C, Salem.
Putnam, Francis P, Danvers.
Rantoul, Robt S, Beverly.
Ray, Peleg, Nantucket.
Reed, Wm L, Abington.
Renny, Jas, Chicopee.
Richardson, Henry, Dracut.
Richardson, S W, Franklin.
Scott, Sam'l W, Uxbridge.
Shove, Jervis, Dighton.
Shumway, Eliel, Groton.
Smith, John, Becket.
Smith, R, South Danvers.
Soule, Thos H, N Bedford.
Spooner, Wm B, Boston.
Stevens, Geo, Lowell.
Studley, Luther, Dennis.
Taft, Calvin R, Williamstown.
Taft, Ezra W, Dedham.
Tay, Sullivan, Lowell.
Thayer, A, Worcester.
Tillotson, O H, Worcester.
Tweed, Harrison, Taunton.
Wakefield, L E, Marlborough.
Wales, Jonathan, Randolph.
Walker, Amasa, N Brookfield
Warren, Rufus E, Grafton.
Waterman, L C, S Scituate.
Watson, Sam'l, N Bedford.
Wells, Geo D, Greenfield.
Wells, S C, Montague.
Williams, Geo F, Boston.
Wing, Paul, Sandwich.
Wood, Albert, Hopkinton.
Woodbury, Simon J, Sutton.

Gardner Americans, 4, *viz:*

Bushnell, Gerard, Templeton.
Dunnels, Amos A, Boston.
Howard, Horace D, Easton.
Shaw, Nathaniel, Weymouth.

Nays, 101, viz:

American Republicans, 36, *viz:*

Abbott, Joseph W, Lynn.
Allen, Charles B, Tisbury.
Blodgett, Wm. W, Pawtucket.
Bradford, Wm, Duxbury.
Chamberlain, M, N. Chelsea.
Corliss, Horatio G. F, Lowell.
Dewey, Wm, Gt Barrington.
Duncan, James H, Haverhill
Field, Alden C Leverett.
Freeman, Rufus C, Plymouth.
French, Thos L, Watertown.
Goodale, Chester, Egremont.
Green. George, Westfield.
Hale, Charles, Boston.
Hardy, Wm, Lawrence.
Hoadley, John C. Lawrence.
Holden, Dana, Billerica.
Hyde, Jas, New Marlborough.
Jepson, John C, Lowell.
Kimball, Nathan S, Haverhill.
Kinney, John M, Wareham.
Leland, Laurin, Holliston.
Mitchell, Joseph, Nantucket.
Moore, Jas G, Waltham.
Morrill, Jona E, Fall River.
Mudge, John G, Petersham
Noble, Nathan K. Cambridge.
Plummer, Sedgwick L, Brighton.
Richardson, Benj H, Sudbury.
Richardson, H N, Attleborough
Saunders, Wm A, Cambridge.
Sprague, Phineas, Malden.
Stevens, Isaac, Athol.
Vose, Henry, Springfield.
Warner, Geo, Amherst.
Wise, Wm G, Lowell.

Gardner Americans, 28, *viz:*

Babson, Fitz J, Gloucester.
Beck, Wm, Boston.
Bicknell, Lot W, Weymouth.
Blair, Samuel E, Warren.
Boyd, Wm B, Medway.
Browne, Geo M, Dorchester.
Curtis, Franklin, Quincy.
Cushing, Eliphalet L, Hingham
Farrington, John, Boston.
Gordon, Solomon J, Boston.
Guild, James, Roxbury.
Johnson, Sylvander, Adams.
Keith, Elbridge, Bridgewater
Makepeace, Wm, Boston.
Mayo, Ira, Orleans.
Page, Wm, Cambridge.
Parsons, Thomas, Brookline.
Paul, Joseph F, Boston.
Pearce, Edw H, Gloucester.
Prescott, Bradbury G, Boston.
Rich, Otis, Boston.
Ross. Joseph, Ipswich.
Ruggles, E. H. R, Dorchester.
Sands, Edward, Boston.
Sprague, Franklin H. Boston.
Temple, J. H, Framingham.
Tucker, Charles K, Lexington.
Wyman, Abraham G, Boston.

Democrats, 37, *viz:*

Baxter, John A, Barnstable.
Brimblecom, Charles, Barre.
Brown, Russell, C, Cheshire.
Caldwell, Joseph, Charlestown.
Cook, Jonathan F, Lee.
Crane, John, Norton.
Cushing, Caleb, Newburyport.
Draper, A. W. West Roxbury.
Hatch, Samuel, Boston.
Higgins, Peter, Boston.
Inglee, Edwin, Halifax.
Keyes, Rollin W, Somerville.
Kniffen, Geo W, Stockbridge
Knox, Charles W, Chester.
Leavitt, Thomas, Boston.
Lewis, Benjamin, Boston.
Marvin, Andrew J, Southwick.
Morton, Marcus, Taunton.
Parmenter, Geo W, Boston.
Pattee, Asa D, Boston.
Pray, Lyman, Charlestown.
Proctor, M, West Cambridge.
Riley, Patrick, Boston.
Sheldon, Lyman. Webster.
Spofford, R S, Jr, Newburyport
Sumner, Andrew J, Milford.
Thayer, Sam'l. Jr, Blackstone.
Tinkham, F, Middleborough.
Walker, Sam'l, Roxbury.
Washburn, Cyrus, Boston.
Wetherbee, Daniel, Acton.
Willard, Paul, Charlestown.
Willis, Henry, Roxbury.
Wood, Enoch, Boxford.
Woods, Robt P, Groton.
Woodworth, J S, Worcester.
Young, Edward, Boston.

Absent, 11, viz:

American Republicans, 6, *viz:*

Atwood, N. E. Provincetown.
Bennett, James, Leominster.
Chapman, Geo H, Chicopee.
Dodge, Francis M. Beverly.
Moore, Orrin R. Southampton.
Woods, Rufus D, Enfield.

Democrats, 4, *viz:*

Deblois, Wm, Boston.
Lawrence, Edw, Charlestown.
Sanderson, H. Q, Springfield.
Learned, Edw, Pittsfield.

Gardner American—Scammel, John S, Milford.

The House then took a recess until a quarter past two o'clock.

REMARKS OF MR PITMAN OF NEW BEDFORD, UPON THE ADDRESS FOR THE REMOVAL OF JUDGE LORING.

Mr. PITMAN of New Bedford, spoke as follows:—*Mr. Speaker and Gentlemen of the House*:—I never read the charter of our liberties in the Bill of Rights, prefixed by the Constitution of Massachusetts, but from the bottom of my heart, I bless the honored memory of old John Adams, for he has engraven, as with a point of iron, upon that tablet, immortal principles, which we are told in that Bill of Rights we ought to recur to constantly, and keep in mind. And I cannot better commence this discussion than by reading the fifth Article of the Bill of Rights:—

"All power residing originally in the people, and being derived from them, the several magistrates and officers of government vested with authority, whether legislative, executive —"

does it stop there, gentlemen—?

"*or judicial*, are their substitutes and agents, and are at all times accountable to them."

That, gentlemen, is the impregnable basis upon which the advocates of this removal place their argument, that the judicial officers of this Commonwealth are but the agents and substitutes of the people, and are at all times accountable to them.

When we turn to the Constitution itself, we find there is nothing to qualify, nothing to limit, but everything to confirm this view of the judicial tenure. We read in that Constitution that officers are to hold their offices during good behavior, provided—what? provided, nevertheless, that the Governor, with consent of the Council, may remove them upon the address of both houses of the legislature,—that is, *although they behave well*, they may be removed, upon the address of the legislature, by the Governor, with the concurrence of his Council. That, Mr. Speaker, is Massachusetts doctrine, and for the defence of that, I stand here today, for the defence of the unlimited right of Massachusetts to change all her rulers, judicial or other, just when we please, just as you change the Governor of your Commonwealth. It is embodied in this Constitution and Bill of Rights, that you have the right to change your judicial officers. Is this at all radical doctrine? I take it from the Bill of Rights and the Constitution, and I have the authority of the ablest men in this Commonwealth, who discussed this power in the Convention of 1820. Let me premise that I belong to that school of interpretation which holds that we are to gather the construction of an instrument from the words of it, when they are clear, and not from anything else. And this is clear and unambiguous, that the people may, at any time, for any causes, remove their judicial officers. But in the debates of 1820, in the Convention called for the formation of the Constitution, we find for this power the authority of the first men of the country. Mr. Lincoln, afterwards Governor of the State, a man whom every one knows not only as a lawyer of ability, but as a gentleman of conservative temperament, said in that debate:—

"There was no analogy—because other governments are not constituted like ours. It was said that judges have estates in their offices"—

and that doctrine we have heard today—

"he did not agree to this doctrine. This office was not made for the judge, nor the judge for the office; but both for the people. There was another tenure—*the confidence of the people*."—Debates 1820, p 480.

That is what Gov. Lincoln said; and that is the doctrine that we maintain here.

Then Mr. Austin, afterwards Attorney-General, also one of the acutest lawyers that ever adorned the bar of Massachusetts, said that—

"When a judge has so far lost the confidence of the community that his usefulness shall be destroyed, he ought, in such case, to be removed. * * * * A man may do do a vast deal of mischief and yet evade the penalty of the law."

He goes farther, and says that—

"The power of removal is a necessary check on the judiciary. It was urged that the judiciary ought to be supported because it was the feeblest of the three departments of the government. He was astonished to hear [illegible] gument."—p. 523.

And, Mr. Speaker, if Mr. Austin, in 1820, was astonished to hear the judiciary pronounced the weakest department of the government, what shall *we* feel, who live in the days of Dred Scott decisions? I conceive that the liberties of this people, this hour, rest more with the judiciary than with any department of this government.

But I have a still more signal authority to cite. The question under discussion, when these sentiments were uttered, was this; it was proposed, in the Convention of 1820, to alter the power of removal by a majority, and to substitute therefor a power of removal by two thirds. The proposition was voted down, by nearly two to one. It was then proposed and carried in the Convention, that the legislature should state the cause of removal, and serve the person interested with a copy, so that he might be admitted to a hearing in his defence before the two Houses. That proposed Article in the Constitution went to the people. It would seem to be a perfectly reasonable one; its provisions have been more than observed in this case; but the people voted it down, simply because they would not bring the least shadow of doubt upon the right of removal by address. In the debate upon the proposition to substitute two-thirds for a majority, Mr. Story said—

"The object of the amendment was to secure the judges from a temporary excitement, operating on the legislature. It was not to protect them against the people, but against the representatives of the people. * * * *He had no fear of the voice of the people when he could get their deliberate voice*, but he did fear from the Legislature, if the judge has no right to be heard"—p. 524.

Now this was the sentiment of Judge Story. Here, we have heard Judge Loring, over and over again; and we have taken the judgment of two successive legislatures upon the matter, and are about to take that of a third; we have observed more than all the safeguards which Judge Story, as a leader of the conservative sentiment of the convention, suggested. We have got at the will of the people of Massachusetts. And, as Mr. Story said, the object of the amendment which he advocated was to secure the judges against the legislature, but we have got at the will of the people, and we are about to execute it.

I say that the Judiciary are not independent of the people. And I am surprised that gentlemen should rise up here, and tell us that the Judiciary are to be independent of the people. Mr. Speaker, we have engaged in the solution of a problem which has for its postulate the right, and the power, and the duty of the people to administer the government. I know it is a tremendous and a fearful experiment; but we believe that, although the people are liable to do wrong, taken as a whole, they are not so likely to do wrong as the monarchies and oligarchies tried in the world heretofore. And upon this belief we have perilled everything, and to carry out our principle we must make the Judiciary depend, in a proper, constitutional mode, upon the will of the people. There can be no basis in the world for a popular government like ours, but the will of the people. There is nothing, there can be nothing, higher than popular sovereignty in our system of government.

So much for these general principles, principles to which we should often recur, principles which if the result of their discussion shall be to deepen in the minds of the people of this Commonwealth, I think we shall have spent our time more usefully than in almost any other manner. I now proceed, to the consideration of the question before the House.

I was sorry, Mr. Speaker, that it had not fallen to my lot to get the floor at an earlier hour; because, sir, it has been charged by the gentleman from Newburyport (Mr. Cushing), that there is a studied ambiguity in the statement given of the reasons for the removal of Judge Loring. I know, sir, that that gentleman would acquit me, for one, of any desire to be ambiguous, or to shirk, in any degree, the reasons for which I advocate this measure. I put it upon two independent grounds. One of those grounds appeals to the head—the other appeals to the heart. I think both of them are impregnable.

First, as to the legal argument: It is that Judge Loring has violated the law of '55. At the time Judge Loring acted in the Burns case, we had the law of 1843, known as the Latimer Statute,— passed at the instance of the Hon. Charles Francis Adams, then a member of the House,—prohibiting our officers from acting under the law of 1793. When it was proposed to bring Judge Loring to account for acting under the law of 1850, he said the statute of '43 did not apply to the law of 1850, notwithstanding the title of the Act of 1850 was an act supplementary to, and o amend the act of 1793. Very well; he had the benefit of that technical defence. But in 1855 the Legislature passed the clear and positive inhibition that is now upon our statute-book. And, Mr. Speaker, that inhibition has been pronounced constitutional by per-

haps the ablest man for the consideration of that question upon the floor of this House, a man, without disparagement to others, brings more judicial ability to that question than any one else in the House. I might almost rest it upon his judicial opinion; and gentlemen will observe that the distinguished late Attorney-General of the United States has not said,—and I honor his professional honesty, —that the thirteenth section of that law is unconstitutional. In reply to my direct question yesterday, he replied that he had not said it was unconstitutional. And he took care not to say so. This is significant enough. Now, gentlemen, what have we opposed to this?

Should I insult this House by arguing that the opinion of *Governor Gardner* is worthy to be considered in this question, upon the point of the constitutionality of the law? But Governor Gardner has sheltered himself under the ex-Attorney General of the State. Now, Mr. Speaker, I have some regard for the reputation of my friend, Mr. Clifford, who differs from me, *toto cælo*, in many respects; and I call the attention of the House to the startling fact that Mr. Clifford never pronounced *that section* of the law unconstitutional—never! That is the defence, too, which Judge Loring sets up,—that he has acted upon the opinion of Mr. Clifford. I hold in my hand that opinion, which, but for the lateness of the hour, I would read *in extenso*. But I will read only that passage which turns upon this part of the law. He says:—

"I must content myself with expressing in this communication the opinion which I entertain, that this bill is obnoxious to very grave objections *in many particulars*, and is clearly repugnant to the provisions of the Constitution of the United States * * * * In my judgment the bill is also exceptionable *in some of its provisions*, as being beyond the constitutional competency of the Legislature, under the provisions of the Constitution of the Commonwealth. It attempts to *construe and declare* the true intent and meaning of the provision of the Constitution which subjects judicial officers to removal by the Executive upon address of both branches of the Legislature."

Now, gentlemen, who will read this opinion,—and I wish before the vote was taken, every man with any doubt upon the matter might read that opinion in full, will read it, and say that Mr. Clifford does not confine himself, so far as relates to this part of the bill, to the fourteenth section, which assumes to say what the succeeding legislature and Governor shall consider sufficient cause for address— This he considers unconstitutional; and in that opinion I agree with him. I do not think that a legislature have a right to pass such a law binding upon their successors. But Mr. Clifford did not say, although he had it directly in his path to say, that that section which says that no officer of Massachusetts shall hold the office of a Commissioner of the United States is unconstitutional. And I challenge, here, today, the production of any competent, impartial lawyer, who will give an opinion to the effect that that section of the law is law is unconstitutional. I think the argument may safely rest here. And let me say, in passing, that I am utterly astonished that Judge Loring, whom I have been in the habit of respecting as a lawyer of at least fair abilities, has not examined the opinion of the Attorney General with more care; and if he has examined it, I am still more astonished that he should place his justification for his violation of that statute upon that opinion.

I might fairly rest the question here. But if gentlemen will take the liberty to look into the laws of other States, passed in no moments of excitement, they will find precisely similar provisions; thus:—

"No judge or Justice of the Peace shall hold the office of Sheriff, Depnty-Sheriff, or Constable."—Laws of Conn. Compilation, 1854 sect 77.

"No judge shall have any partner practising in the Court of which he is a Judge."

"No judge of the Court of Appeals or Justice of the Supreme Court shall practice as an Attorney, Solicitor, or Counsellor in any Court in this State."—Rev. St. New York, vol. 2, p. 463.

"No judge of any Court of Common Pleas in this State shall act as Clerk of the Court of which he is a judge, nor as an attorney at law or Counsellor in any Court in this state, any license to practice law, custom, or usage to the contrary notwithstanding."—Laws of New Jersey, Nixon's Digest, p. 375.

And a provision in the State of Ohio, to which I wish to call special attention. Ohio provides, after reciting that judges of the court of common pleas have been in the habit of appearing in the lower courts, and as stirring up litigation,

That if any Judge of the C. C. Pleas shall, during his continuance in office, act as attorney, counsel, or advocate for any party in the Court of any Justice of the Peace, he shall be fined in a sum not less than $50 nor more than $500, and be imprisoned in the dungeon of the County Jail and fed on bread and water only, not less than 10 nor more than 30 days, at the discretion of the court. Shaw's Rev. Sts. Ohio, p. 293.

[Laughter.] Well, now, I confess, gentlemen, that when I read that law I wondered what in the name of common sense induced the legislature of Ohio to pass such a penal statute as that upon their judges. I supposed that the judges of any civilized State would take notice of the law, and obey it, without being imprisoned in the dungeon of the county jail, and fed on bread and water. But yesterday, when I heard the argument of the gentleman from Boston, (Mr. HALE,) I saw there was need, supposing his views of constitutional law to be correct, of such a provision as that. For he said yesterday that when a law is upon the statute-book, a judge may violate it with perfect impunity, if there is not a penalty attached to its violation.

But I do not think it necessary, in Massachusetts, to provide that if a Judge of your own do not obey the laws, he shall be punished as you punish ordinary criminals. I believe we have a power, the exercise of which is better than penal laws upon your statute-book to punish judges.

The gentleman from Taunton seemed to mistake, in one part of his remarks, the precise order of events in Judge Loring's case. Judge Loring had his sitting, in the trial of Burns, before the passage of the law of 1855. Observe that it is the continuation in office after the passage of the law which constitutes his offence. While I speak he is violating the law, every hour that we suffer him to be in the office. And he has himself said, in his protest of 1855, that he is under sovereign obligation to violate the law of Massachusetts, not only passively but actively. I call the attention of the House to his language. He says:—

"The duties of Commissioners of the Circuit Courts of the United Sates, under the law of 1850, are imperative upon them; and an application made, pursuant to law, to any one Commissioner, fixes that duty on him, and after such application, he can neither decline or evade it."

I say, gentlemen, he tells you he is shut up to the violation of the laws of Massachusetts. And now, I put it to the conservative men of this House, who, I think, ought to agree with me so far as this,—I put it to them to say, whether a man who violates the law of the Commonwealth, and sets the Commonwealth at defiance not merely, but who does it defiantly, assuming upon his own private opinion of the constitutionality of a law to disobey it, not as a *martyr*, but as a man eating his master's bread and spurning both his wishes and commands and keeping his salary,—I put it to them to say, whether the insulted majesty of the Commonwealth does not demand some vindication at our hands?

So much, Mr. Speaker, for the first part of this question. But, sir, I should do injustice not only to the feelings of my own heart, but should be guilty, perhaps, of doing wrong to those who are advocating this measure, were I to put it only on this ground. I hold that this is sufficient and impregnable; but I desire to place our action on another ground. I desire to say that for one, I seek to remove Edward Greeley Loring because he has lent himself to the execution of the Fugitive Slave Law. That, Mr. Speaker, is one of the strong motives that press upon some; and it is that which, in my opinion, gives a moral force to, as well as a large necessity for, our own action here today.

Sir, I have no time to speak of that infernal statute in the language it deserves. But, sir, I feel more strongly upon this matter than many. For it happens to me to represent a district that has within it, I suppose, more fugitive slaves than any district in this Commonwealth. And, Mr. Speaker, I have seen, as perhaps few gentlemen have seen, the cruelty of this statute, not merely in its execution, but as it is held *in terrorem* over these poor, trembling creatures.

Soon after its passage the Sabbath stillness of the morning hour in our city was broken with an alarm, preconcerted signal for the approach of the kidnappers. In an hour of quiet we saw men hurrying as if for their lives, because they feared that the slave-catcher was upon their track. Mr. Speaker, how should we feel, if every knock at our doors might be the summons of an officer, to take from us our wives or our children. It seems to me that if the people of this Commonwealth could understand this business, if they could go down to New Bedford, to look into the face of some of those fugitive slaves, pallid with terror, after the passage of the Fugitive Slave Bill, they would come here with a feeling that would not suffer them to rest till they should put upon every act of participation in its execution the stamp of their reprobation so deep that it should stay there forever. To illustrate the cruelty of this law, let me call attention to the exposition of it Mr. Loring gives, in his decision. He says:

"The identity of Anthony Burns is the only question I have the right to consider."

The identity of Anthony Burns was the only question he had to consider! There is a statute of these United States, declaring that any man may come behind my back, put his hand upon me, and taking before that Commissioner, [pointing to Mr. Benjamin F. Hallet, who sat near] and, proving that I am Robert C. Pitman, by certain marks upon my person, the Commissioner is bound, no matter what real testimony I may produce against my being a slave, the fact of identity being established, to send me to any place where my kidnapper says I belong! That is the judicial exposition, and no doubt it is correct. And now I say here, gentlemen, no matter who shrinks from saying it, it should be rendered infamous to aid such a law to the utmost extent of the power of Massachusetts, exerted in a constitutional manner. I do not think I speak too strongly, when I say that Massachusetts abhors to this day the man that executed that law. I do not think I am more sensitive than other men; but it happened to me since the rendition of Simms, to appear before Mr. Commissioner Curtis, and I cannot express to you the loathing with which I went into that man's presence. And I am not in favor of making a delicate woman of our Commonwealth go before a man like Commissioner Loring, after he has fastened the shackles and the fetters upon a man in Massachusetts. I believe that we owe it to the people to spare them the degradation of appearing before such a magistrate.

Mr. Speaker, I alluded to the case of Simms. It happened to me to be in Boston on the Friday when he was sent into bondage. I came up to that court-house resolved not to bow beneath the chain, although the Chief Justice of the Commonwealth had done it. But I found that I had an easy access, because the father of one of our honored Representatives, the Chief Justice of the Court of Common Pleas, (Judge Wells,) had, the day before, exercised the manliness of a Massachusetts judge, and demanded that access to his court-house should be free. I saw Simms sent into bondage, and I thought I had seen such a transaction as no person living would ever see repeated,—I thought one such blot would be enough upon the honor of Massachusetts.

I happened to be in Boston the next Friday, and I heard the joyful sound of the cannon, announcing the election of Charles Sumner to the United States Senate; and I felt that that was the answer of Massachusetts, to that deed,—the rendition of Simms,—that that was the verdict of Massachusetts. I remember the language of Mr. Sumner, when he said that "There are depths of infamy, as well as heights of fame, and the former belong to the authors of the Fugitive Slave Law."

But, Mr. Speaker, the Burns case was attended with circumstances of peculiar interest. If not designedly, it certainly happened at a time when Massachusetts was exasperated, to the last degree, by the passage of the Kanzas and Nebraska Act. It seemed, sir, to be selected as the day to humiliate us still further, to sink us still lower. The rendition took place with every circumstance of solemnity; that very circumstance indicate the depth of interest that Massachusetts felt. It is computed, sir, that fifty thousand persons lined State street, and vicinity, to witness the sending back of the second man into slavery from Massachusetts. This time, sir, Massachusetts was stirred still more deeply, and the result was the passage of the Personal Liberty Bill of 1855.

This rendition of Anthony Burns was nearly four years ago. The gentleman from Boston says—why cannot we be satisfied with twice obtaining a verdict of the Legislature upon the conduct of Judge Loring,—and that ought to satisfy us. I submit, sir, that the trouble is simply this,—it is a trouble that an Attorney very rarely, but sometimes, experiences We have gained two verdicts in the case of *the Commonwealth* vs. *Edward G. Loring*, and the Judge has set them aside. And now the people have set *him* aside, and we are to have a new verdict. [Laughter and applause.]

Mr. Speaker, I do desire that when men in the South put the brand of "*Thief*" upon such men as Walker, a citizen of Massachusetts, whom some of our representatives well knew, for an act of humanity that will hand his name down to posterity with honor, while the South, I say, brands a man for a crime against slavery, I desire that the North should affix a brand of moral infamy upon a man guilty of a crime against liberty. [Mr. DODGE of Chatham, from his seat,—"Amen!"] I do not desire this, Mr. Speaker, for revenge; if I know the sentiments of my heart, I stand here for public justice and public right. I desire to include in the same category with Judge Loring every man who violates the law. Far be it from me,—far be it from me to entertain any sentiments but those of pity, for Judge Loring. I know he may be sheltered and supported by men of Boston who live in high places. But if I am certain of anything, it is of the name that history will give him. For, Mr. Speaker, it so happens that history, which conceals every defect of reformers,—which forgets all that was vicious in Luther, and that was abusive in Milton,—although it covers with a mantle of charity every sin of reformers, does not fail to fix in the pillory any man, no matter how great his private virtue, who arrays himself on the side of tyranny. And that despised William Lloyd Garrison, in the annals of history, will stand above men of splendid talents who have not lent them to the cause of freedom. [Applause].

Mr. Speaker, the gentleman from Newburyport [Mr. Cushing], the other day, in his speech, uttered, as it seems to me, sentiments that we ought to protest against upon other grounds than those which have been alluded to. He said, with voice, and air, and gesture, that satisfied me that if that "poor demented negro" had met with a misfortune in losing his master, he would have met with a greater misfortune if he had found one in the gentleman from Newburyport—[Much laughter]—he said to this House that the Caucasian race were the masters of this country,—its sovereigns, its rulers,—and that with the help of God, we will still continue to be the rulers of the United States, and this in the same spirit in which the Supreme Court of the United States decided that colored men, at the time of the Revolution, had no rights which the white man was bound to respect. Now, sir, against the spirit of this I sol-

emnly protest. It is the spirit of the oppressor, all the world o'er; it is the spirit that finds expression in the pirate's arm, but never ought to find expression in a legislature, or a judicial tribunal. It is this spirit that says, because we are stronger we should strike down the weaker, because we are more intelligent we should deprive the less intelligent of the few privileges they have had,—that because the negro is poor and degraded, therefore the rights of citizenship may be taken from him, and he may be exposed to the rapacity of every man who chooses to rob him. It is this spirit that I protest against. This is not Massashusetts doctrine.

We, Mr. Speaker, make laws to protect the weak. This is no question of social equality; it is the question of *political* rights And it is the fundamental axiom in our theory that the rights of the humblest are to stand on a level with the rights of the strongest. And so I stand here today to say that Massachusetts cares for the humblest of her citizens.—And I feel proud to stand here, and remember that we are considering a case which arises out of the rendition of a poor, ignorant, friendless negro. That is the boast and pride of our Commonwealth, that no negro can be taken from our soil without stirring, to the very bottom, the sentiments of every Massachusetts man. And, Mr. Speaker, it is that which makes the honor of the Commonwealth. It is the love of liberty that illustrates the Past; it is the love of it today that brightens the Present.

Judge Loring.

Mr. Hale:—The public have seen in your paper of the 12th inst., the vote of the House upon the removal of Judge Loring. They have read your remarks upon the question with much satisfaction. Encouraged by the liberality and justice of the views which you addressed to the House, a private citizen is induced to add his humble effort to arrest the consummation of a measure which no dispassionate mind can view without serious apprehension.

I impute no motives to the signers of the petitions—said to be 8000 in number—who have year after year been pursuing Judge Loring, with systematic vengeance. Let us look for a moment to the consequences which are to follow the success of this movement. An amiable, high-minded, kind-hearted gentleman and scholar, upon whose good name not a breath of suspicion has been breathed, is to be stricken down—an able jurist, and an impartial judge, is to be deprived of an honorable office, in the duties of which not a man has been found to charge him with the want of fidelity or ability.

Those who clamor for this sacrifice are not his neighbors—those who are within the jurisdiction which he exercises. They know him and respect him, and are content that he should remain. The opposition comes chiefly from quarters more remote, and the ground on which they demand the sacrifice is a single act, in another capacity than that of Judge of Probate, done years ago, under a commission from the United States, which he held and was known to hold when that of Judge of Probate was tendered for his acceptance.

And in regard to the very judgment which he rendered in his capacity as Commissioner, there is not a just or generous minded person amongst those petitioners who would not have scorned and despised him, as they thought, if he had shrunk, by reason of timidity or selfish policy, from declaring the conviction of his own judgment in the case.

Grant, by the way of argument, that in this he was mistaken. Nobody pretends he was corrupt or dishonest; nobody pretends that he did not act up to his own conviction of official duty, in declaring the judgment he did in the case of Burns.

Is a single mistake—if it was a mistake—on the part of a judge in forming an opinion upon a matter which he may be called upon to decide, to be made a sufficient ground for impeachment or removal? If so, there is not a judge upon any bench, high or low, who is not liable to removal tomorrow.

Is it sufficient ground for the removal of a judge, that he dares to express an opinion in a matter which he is called upon to decide which is opposed to the sentiment of a larger or smaller portion of the community? Is a judge to go out into the street before he shall dare to determine a question of right between man and man, to take the popular sentiment of the day as his guide? God have mercy on him who seeks for justice in times of much excitement, under such a rule? To call the decisions of our courts under such a guidance justice, would be too palpable a mockery to deceive any man. And yet how much short of this are some of the positions assumed by the report of the committee on the subject of Judge Loring's removal?

"If it is unconstitutional" (says that report when speaking of the law, which he is said to have violated) "they hold that the principle so long acknowledged which *dictated* its enactment is also abundant cause and justification," for this removal.

No matter though he may not have violated any constitutional law, if he has gone counter to the tone and spirit of that popular feeling which has "dictated" an *unconstitutional* law, he is to be made a monument of popular vengeance, which shall forever deter judges, hereafter, from presuming to interpose the law between the passions of the hour and the victim, it may be, of unfounded prejudice!

Is it upon a tenure like this that our judges hereafter are to hold their office? Is the administration of justice hereafter to be shaped and moulded by party hue and cry or clamor?

It is said that Judge Loring has violated a law of the Commonwealth which forbids him to hold the office of Commissioner under the United States.

That condition of the tenure of his office has been imposed upon him by a statute passed long after his appointment—an appointment made with the full knowledge on the part of those from whom it came, that he held the, now obnoxious, commission.

Is the tenure of Judicial office hereafter to depend upon conforming to every enactment which the caprice or hostile feeling of any legislature may "dictate"?

We talk about the independence of our Judiciary—of its being the safeguard of the rights of the citizen, and of notions like these which have come down to us from our ancestors and the days of the Constitution.

But it is all worse than gammon if some hot-headed zealot who happens to hold a seat in the legislature, may vent his spleen at a Judge or the court, by forcing through a bill, under the pressure of some excitement of the hour, imposing terms and conditions upon which he shall be permitted to hold office.

Suppose the legislature were by law to require the Chief Justice of the Supreme Court to remove to and make his home in some remote town of the Commonwealth, or were to declare the attendance upon the meetings of some unpopular sect, or the sending his children to any other than a particular school, a sufficient ground for addressing the governor for his removal—would it be pretended that he was any longer an independent judge, or even a free man?

This attempt to remove Judge Loring by address, is a dangerous precedent. It will be the first step in a course of measures which will prostrate our judiciary, or compel them to turn politicians and make Dred Scott decisions, to save themselves from removal and disgrace

If it could stop with a single sacrifice—if the same spirit that clamors for the life of Judge Loring, could be laid and appeased by a single victim—men might perhaps be content to see a worthy man and an incorruptible judge struck down in the arena into which he has been forced.

But whoever believes this, deludes his own judgment. This step, if taken, will tell upon the his-

olson letter, the power of Congress to legislate for the Territories was undisturbed. This letter was held up by the South as a high bid for office, but bids still higher were demanded. Then Mr. Fillmore bid the fugitive slave bill. Mr. Webster followed, with his 7th of March speech, and Mr. Douglas, with the repeal of the Missouri compromise. What was the reward of these three men? One was voted down in [illegible] convention; one did not av[illegible] receive-

Massachusetts Legislature.

Reported for the Boston Daily Advertiser.]

SENATE.

MONDAY, March 15.—Senate met at 11 A. M. Prayer by the House Chaplain.

The next matter was the address to the Governor for the removal of Edward Greeley Loring from the office of Judge of Probate for the County of Suffolk.

On motion of Mr. STONE of Essex, Wednesday, at one o'clock, was assigned as the time for taking the question.

Mr. PRINCE of Essex, said it was not his purpose to offer an elaborate speech upon this subject, but he should merely offer seriatim the reasons which had influenced his own mind and determined his action in favor of the address for Judge Loring's removal. These reasons he should not undertake to present in an amplified and argumentative form, nor should he attempt to waken any enthusiasm by appealing to the sympathies of Senators, in relation to the merits of the question. It was too late, he thought, for anything of this sort. Three years ago, it might have been pertinent. But at this stage in the movement to depose this judge, it would be contrary to his idea of the proper economy of time, and hardly in accordance with intrinsic fitness. He voted in 1855, in the other branch, for a similar address, and his reasons had not changed but had, if possible, been strengthened and confirmed. He should vote for Judge Loring's removal, because,—

1. He compromised the honor of Massachusetts, by acting in defiance of the well-known, oft-expressed sentiment of the Commonwealth, in relation to the participation of her own State officials in the business of slave catching.

2. He acted in defiance not only of this sentiment, but of the spirit and intent of a statute law of this Commonwealth, passed in 1843, by a democratic legislature, and signed by a democratic Governor (Gov. Morton) with the "advice and consent," it is presumed, of a council unanimously democratic, with Hon. Benjamin F. Hallett at its head!—the first section of which law reads as follows:

> "No judge of any court of record of this Commonwealth, and no justice of the peace, shall hereafter take cognizance or grant a certificate in cases that may arise under the third section of an Act of Congress, passed February 12th, 1793, and entitled 'an Act respecting fugitives from justice and persons escaping from the service of their masters,' to any person who claims any other person as a fugitive slave, within the jurisdiction of this Commonwealth." (Acts of 1843, chap. 69.)

Mr. PRINCE said that Mr. Loring was ap pointed Judge four years after the passage of this law—that is in 1847—and he accepted the appointment, knowing what the law of the State was. He (Mr. PRINCE) knew that it had been urged in Judge Loring's behalf, that in the rendition of Anthony Burns, he acted, not under the U. S. law of 1793, referred to in the Massachusetts law just cited, but under the fugitive slave law of 1850. This, however, Mr. PRINCE regarded as an unmanly quibble; for the last named law of 1850 is in spirit but a continuation of the act of Congress of 1793, and is entitled "An Act to amend, and supplementary to, the act entitled 'An Act respecting Fugitives from Justice and persons escaping from the service of their masters,' approved Feb. 12th, 1793." So that Judge Loring plainly violated the spirit of our State law of 1843—it being the intent of that act to prohibit judges from participating in the return of alleged fugitive slaves, under any law, whether of 1793 or 1850.

3. It has been proved, by testimony given under oath, that the case of Anthony Burns was prejudged by Mr. Loring—he having expressly told Wendell Phillips, when that gentleman asked for a postponement of the trial, that it would be of no use to defer the matter, for it would only be delaying the time when Burns would be sent back into slavery, as he undoubtedly would be! This was a crime—a crime against the right of every man to an impartial trial. If a juror or a referee is known to have expressed an opinion upon any matter to be submitted to him, he is very properly considered as disqualified from sitting as umpire on its merits. Yet Judge Loring expressed an emphatic decision that Burns would go back, at all hazards, before witnesses had been sworn or the accused party had a chance to be heard. His final and official decision was therefore merely a foregone conclusion.

4. He adjourned his Probate Court to attend to the case of Burns, thus waiving, setting aside, postponing the business of Massachusetts' widows and heirs of estates, to hear the claims of a slaveholder from Virginia. Let him, then, vacate the post of a Massachusetts judgeship, and, if he prefers, be the prompt ally, under a Federal law, of the pursuer of slaves.

5. He holds two offices—viz.: that of Probate Judge and that of U. S. Commissioner—in direct violation of a law passed in 1855, known as the Personal Liberty Law, which a venerable Ex-Judge and Ex-Governor, who is now a member of the other branch of the Legislature, (Ex-Governor Morton,) has pronounced to be, in his opinion, perfectly constitutional.

Mr. PRINCE added that the people of Massachusetts, as thrice signified, desire his removal; and the people of Suffolk county, like babies in the story, are "willing,"—else among the 200,000 and more of the population of Suffolk, many thousands would be thundering at the doors of the capitol in remonstrance against his removal. Instead of this being the case, hardly anybody in Suffolk County seems to concern himself in the Judge's behalf. They appear to be reconciled that he should slide. This step will not injuriously affect the Banks party, nor will it impair the "independence of the Judiciary," as some have apprehended, but will rather tend to promote that "independence;" for we shall emphatically declare that our Judiciary shall be independent of Federal influence—independent of any obligations to assist officially in the business of surrendering slaves, or to adjourn a Massachusetts court for that purpose—and free to discharge their own State duties, while they leave United States laws to be executed by U. S. officers.

Mr. TURNER of Norfolk, opposed the adoption of the address. He did not believe that the sentiment of the people of Massachusetts was in favor of the removal.

The Removal of Loring.

The party which, in an evil hour, is installed at the state house, is resolved upon the radical and destructive measure of the removal of Judge Loring. The votes in the senate and the house plainly indicate a foregone conclusion. The call for vengeance, uttered by the abolition element, will be responded to; and to the damning and lasting dishonor of Massachusetts.

The signs are that this object will be reached through the covert way of *the consolidation of the courts*. This bill has passed the senate and it will pass the house. The soundest argument—the most powerful appeals that probably can be made by any intellect now on the political stage—reasons as conclusive as ever were offered to affect a public measure—the surprise and aston-

ishment everywhere expressed by thinking men of all parties at the unheard of abolition of our simple and beautiful probate system—all—all pass as so much idle wind. The stern demand of party answers all reasoning—swallows up all considerations connected with the common good. This bill, which displaces Judge Loring, and creates a crowd of new offices to be disposed of,—which thus propitiates the abolition cry for vergeance and the partizan's demand for political capital,—will soon be the law of the land!

At whose demand is this removal of Loring to be effected? Senator Turner, of Norfolk, an American, in debating the policy of the Address, well described yesterday, in the senate, the character of the squad of men who are the real leaders in this removal movement. He said they were the men who "hugged the negro to their bosoms as a co-equal; who warred on our federal constitution; who had traitor at the top of their column and infidel at the base." "These," said he, "are your leaders." And the senator was right! These are the *real* leaders who have driven the infamous consolidation of the courts bill through both houses; and this is the sentiment which the destruction of our probate system and the Address for the REMOVAL OF LORING are designed to propitiate!

Was there ever such wicked legislation seen before in this commonwealth? Both the senate and the house majority, in following such leadership as Senator Turner described, have covered themselves with infamy. It matters little *how* this removal is done, provided it *is* done; whether by ADDRESS or by the CONSOLIDATION process. It will be done at the dictation of an ultraism and radicalism that hesitate at nothing to carry their points. This is the spirit which our country has most of all to dread. This is the spirit that deems law, constitutions, expediency, as mere gossamer barriers when they stand in opposition to popular passions and prejudices. This is the spirit that, to strike at slavery, would not hesitate a moment to ride over state lines.

Massachusetts indeed has fallen on evil days. Fanaticism, traitorship to the constitution and the Union, now dictates her councils. Men clothed with power have forgot right; and their acts cannot fail to prejudice, not only all our material interests,—not only our splendid business concerns,—but will tend to keep our state before the Union as a public faith breaking state.

Most justly do the party in power deserve the execration of every friend of the constitution of our country.

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WEDNESDAY MORNING, MARCH 17.

REMARKS OF MR. ANDREW OF BOSTON, UPON THE ADDRESS FOR THE REMOVAL OF JUDGE LORING.

Mr. Speaker:—I oppose the motion of the gentleman from Newburyport (Gen. Cushing) to recommit the address, with directions to inquire into the expediency of impeachment, and if any cause therefor exists. It implies either that the facts alleged in the report, if true, constitute proper ground of impeachment, or else that the case before the house is one to which the method of removal by address ought never to be applied. Neither of these propositions can be true. It is competent for the government to remove a judge from office under circumstances which would neither require, nor justify, impeachment. If it was intended that impeachment should always be resorted to as the remedy of the people, then the provision for possible removal by address would have had no place, and could have no proper place in the Constitution. The first proposition which the motion seems to imply, then, cannot be true.

Secondly. As to the implication that this is a case to which the remedy proposed, viz., removal by address, ought never to be applied. Why, Mr. Speaker, if the arguments already addressed to us are correct, then removal by impeachment would be impossible, although the facts were flagrantly correct, and true as charged. The facts are truly stated, and I maintain that the preservation of the rights, the "honor," (quoting the very word so frequently iterated and reiterated by the distinguished gentleman from Newburyport,) that the rights, the "honor," the future safety, the proper administration of the laws of the people of Massachusetts, require the application of this immediate, this precise remedy of removal of a judicial officer by address.

The complaint, Mr. Speaker, made against Judge Loring is *not* for misfeasance or malfeasance in the administration of justice, in the performance of the functions of the office of Judge of Probate. If there is anything objectionable urged against the judge in his capacity of Judge of Probate of wills in the County of Suffolk, it is simply incidental to the main allegation, the main charge upon which this mighty petition of the people rests. The objection made is that the people of Massachusetts judge it to be inconvenient and unsafe that a man holding a judicial office, called upon to perform the most delicate judicial functions as a judge of the Commonwealth of Massachusetts, acting under her laws, should also occupy an office which implies the performance of duties, and calls for the exercise of functions, (imperative on him, in the opinion of Judge Loring,) which not only come into conflict with the great heart, the great public sentiment, the conscience, and the judgment of the mass of all Massachusetts, but also in conflict with their lawful will, legislatively expressed. And I, sir, speaking for my own humble self; declaring the judgment of my own mind; speaking under all the responsibility that attaches to me as the representative of a constituency of this Commonwealth; discharging myself of all personal feeling or political prejudice (as I sincerely trust and believe); I find it to be my duty,—notwithstanding the delicate relations which I hold, as a member of the Suffolk bar to that gentleman, overcoming all the felling, which might natural overshadow my judgment,—and which, I apprehend, I cannot prevent, for a single moment oppressing me, and acting directly in conflict with the opinions, prejudices, and desires of personal friends and professional associates, whom I would not willingly wound, I find it to be my duty after long reflection to declare that I believe there is *no way of escape*, (consistently either with our rights, our interest, or our honor), from the application of this precise remedy—*the removal by address*. I say that there is no alternative. The Judge of Probate for the County of Suffolk plants himself upon his own private interpretation of the law of 1855, upon his own private judgment, and what he deems to be his right and his duty. I take issue with him; I say—the majority of the people of this Commonwealth declared their will in the last State gubernatorial election: into the discussion incident to that election was thrown, by their opponents, this very question of the removal of Judge Loring. And the people expressed themselves of the opinion that this remedy ought to be resorted to, pursued, and applied.

There is no way of escape, consistently with the preservation of our rights, and our honor. The position of Judge of Probate under the laws of the Commonwealth, is incompatible with the performance of any such function as that required of the Fugitive Slave Commissioner. I say that the Act of Congress of 1850, presents an entirely different case from that presented by the old Rendition Act of 1793, under which statute our own act of 1843 was passed. It was competent under that statute for State magistrates to act,—but it presented an entirely different case, a wholly different case. And yet, Mr. Speaker, I ask gentlemen on the floor of this House to remember that the legislature of Massachusetts forbade, by special legislation, the performance of any function under the Fugitive Slave Act of '93, on the part of any magistrate or officer, whether judicial, executive, or ministerial, created by the laws of the Commonwealth. And yet, Mr. Speaker, I say that, the case presented by the Act of '93 is a little different from that presented by the Act of '50. And I will tell you why. It exhibits an incompatibility, staring, glaring, and flagrant; presenting, as it seems to me, no ground of argument, no question or doubt under the Act of 1793, a magistrate assuming to issue a writ for the purpose of taking into custody an individual alleged to be a fugitive from bondage or service in another State,—being an officer or magistrate of Massachusetts, would be under the direct supervision of the supreme judicial tribunal; and habeas corpus, personal replevin, or whatever judicial process might be best adapted to the purpose of securing his rights to a person claiming to be a freeman,—in the actual possession of his liberty, claiming title to himself, up to the moment of his arrest,—would be entirely competent, would be entirely easy, would be entirely adapted to the preservation of his legal rights, and would protect him in his liberties.

But, mark you, Mr. Speaker, the attitude in which we stand to the law of 1850. Under the Act of 1850, we have a State magistrate, in the person of Judge Loring, vested with all the powers of a United States Commissioner, for the purpose of the recapture of persons claimed to be fugitive slaves. And he issues a process, in his capacity of United States Commissioner in favor of a claimant. The United States Marshal surrounds him with his *posse comitatus*, surrounds himself with a hundred men, clad in mail, sabre in hand, pistol in pocket, sword drawn, bayonet fixed. The United States marshal draws men from the navy yard, and from the fort in our harbor, and no State process can touch the man in his custody. Thus it is held. From the moment of seizure, without endangering a collision of arms between the marshal, armed with what is claimed to be judicial process of the United States, and the sheriff, armed with a judicial process of Massachusetts, there can be no process served fit to protect a freeman. That is where we stand:

A little boy—a young man, may be claimed by some one, clear from the Pacific—as a fugitive, apprentice bound to labor in the gold mines of California. He may be arrested in the streets of Boston, charged with escape; he may be my son, Mr. Speaker, or yours, but the moment,—the moment,—the hand of the United States Marshal is laid upon his shoulder, holding in his other hand an alleged process of the United States Commissioner, that moment that boy is treated as if all the presumptions of law had been reversed. He is held as a prisoner, without bail or mainprize, without opportunity of consulting friend or counsel,—(except such as the Marshal chooses to accord him.) He may be taken and carried off, without any opportunity given to him or to his friends to introduce testimony in his favor. His rights are to be decided upon depositions taken behind his back, without an opportunity of confronting the witness or of cross examination, or meeting the facts.—He has no chance of habeas corpus, without armed collision; no right of appealing even to the United States Circuit Court; without the possibility of writ of error, or of any other process adapted to an inquiry either into the facts alleged against him, or the correctness of the law held by the Commissioner. And Massachusetts herself—bound by all the honor of a State to protect him—lies powerless at the feet of a man whose whole judicial life is in the breath of the nostrils of another,—commissioned by nobody,—only a temporary officer of a Court having no certain tenure of office; carrying a commission in his pocket, with no salary; with no guaranty, either into the nature of the office which he fills or the character of the functions which he performs.

Now, Mr. Speaker, both as a man and as a lawyer, I affirm, with the most absolute certainty of conviction, that the day will necessarily come when it will be the unanimous judgment of the courts and of the profession, that all such claims of power on the part of the United States, and of these inferior officers, are absolutely false, nugatory and void. It will be done; the courts will yet decide it. The time will come. Yes, sir, the time will come, when the Supreme Judicial Court of Massachusetts will hold, that, in spite of all the processes that can possibly issue from any tribunal, high or low, of federal jurisdiction, adapted to the single purpose of catching, reclaiming and carrying off a fugitive slave, they can have no application whatever to a Massachusetts freeman;—and that the man on the Massachusetts soil, in the aspect of a man,—wearing the guise of humanity, possessing the attributes of humanity,—in the actual possession of his own body, claiming a title to himself, adversely to all other claimants,—*presumptively, prima facié*, FREE;—and that no fugitive-slave-process can touch him. I deny, Mr. Speaker, that any processes adapted to carrying off a fugitive slave can apply to me. I admit that they may apply in South Carolina, in North Carolina, in Kentucky, in Alabama, and Mississippi, in those States where black skin is *prima facie* evidence of servitude, where a black man or woman found astray in the street is as much, the presumptive property of somebody, as a horse or an ox found astray in the streets. But I deny that it applies to any white man, under the law of any State. I deny that it applies even to any black man in any State, found in the immediate possession of—a master, claiming title,—where the law permits slavery.

I affirm that this Fugitive Slave Law, admitting—for the moment—all that has been claimed for its constitutionality, can never apply to any person excepting a black man in the slave States, and only a black man who is found out of the immediate possession of any master. The courts will decide so; they will have to decide so. Who could carry out the Fugitive Slave Bill in any slave State on this continent as it has been administered and carried out in Massachusetts? There is not force enough in the Federal Government, to apply and carry out the Fugitive Slave Bill of 1850 in Virginia as it has been carried out in Massachusetts! Let a man from Tennessee go into Virginia, with his affidavits and records taken before some magistrate of Tennessee, and let him march upon the tobacco field of a planter of Virginia, and undertake to seize, by process of a United States Commissioner, one of that planter's slaves out from under the driver's lash—of which, by possession, he has a title, as good by slave law, as yours is to the horse under your saddle—and, if he succeeds in carrying off the slave—claimed to be a fugitive from Tennessee—in defiance of a writ of replevin, on the part of the master in possession, I wish you would be kind enough to come and let me know it. It will be a curiosity to be remembered. This power strikes at the rights of the States and of the people all over the country, wherever a sentiment of liberty and a just appreciation of the rights of humanity, or even an intelligent notion of the right of property.

Now, Mr. Speaker, here are divers questions, which the courts will, sometime or other, find it necessary to meet, and which will sometime arise, under circumstances favorable to their just decision. I hope the day for meeting these questions will not

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soon come; I hope it will be delayed until the public feeling shall have become more quiet; but a judicial decision upon it will come. It will come,—*it will come!* Yes, sir, IT WILL COME! And whenever a fugitive-slave-law-process is attempted to be served upon a man presumptively free,—as all men are in Massachusetts,—in the actual possession of his liberty, upon our soil, claiming title to himself as against all other persons, the courts of Massachusetts will have to meet it,—must meet it. And I claim, sir, that it is a part of the justest and most absolute conservatism, to forbid the judicial officers and magistrates of the State government to occupy such relations towards the federal government, as to complicate their position, and entangle their jurisdiction. Each man should stand or fall to his own master. Every citizen of the United States and of the Commonwealth of Massachusetts, every person entitled to apply for judicial process, is entitled to stand before a tribunal free to pass on untrammelled judgment; free to assert and insist upon his own true jurisdiction, and who can tell under what government is jurisdiction derived.

Your United States Government, Mr. Speaker, would not permit its officers to complicate their position. The Government of Massachusetts cannot, consistently with its own honor, allow the judicial officers of Massachusetts to complicate their position. If you permit it, you render it absolutely impossible that the institutions of America, that this combined, complex government, State and Federal, should be able to work itself out of its own natural results Whenever the time comes, this controversy wll be settled peacefully; there will be no conflict exceiting a judicial one; there will be no controversy of arms. It will be settled by the judgment of the courts; and I believe they will ultimately coincide. But you will have two distinct classes of officers, and you cannot secure the proper working of our institutions, unless you keep these two independent judicial systems, and these two descriptions of officers entirely separate and apart. You cannot have a Judge of the Supreme Court of Massachusetts acting as a Judge of our United States Court. I refer not now to any prohibition or inhibition contained in the language of either Constitution. I say that you cannot do it consistently with the essential principles and character of this complicated frame of government. Neither, sir, can you permit any inferior magistrate of either government to complicate and mix up his jurisdiction.

I say, therefore, that by a necessity of the case, in my judgment, the rights, interests, safety, and honor of Massachusetts require that she should keep her own judiciary entirely unentangled with, entirely disconnected from, the performance, or possible performance, of any function under the laws of the United States in the exercise of which the laws and judicial process of the two jurisdictions may possibly come into conflict with each other. I oppose, therefore, the motion to re-commit offered by the gentleman from Newburyport. I think to adopt it would be to misconceive our case, to misapprehend the transcendent questions of State policy and public law, that case involves.

Massachusetts Legislature.

[Reported for the Boston Daily Advertiser.]

SENATE.

TUESDAY, March 16.—The Senate met at 10 A. M. Prayer was offered by the House Chaplain.

The orders of the day were taken up.

The first matter was the consideration of the Address to the Governor for the removal of Edward Greeley Loring from the office of Judge of Probate for the County of Suffolk.

Mr. DAVIS of Plymouth, Chairman of the Committee, advocated the address. He stated that the reasons which guided the committee in their action, were to them conclusive. They found as the basis of their action, that the Constitution gave to the four coördinate branches of our government the broadest and fullest powers for removal by address. The reasons adduced must of course be satisfactory to each branch, and the provision that these reasons are to be acted upon by each separately is the safeguard, which the Constitution provides for against the operation of caprice. There is nothing in the Constitution indicating any restriction to this power, and there is nothing in the debates so often alluded to in the convention for the revision of the Constitution, indicating that at that time any restriction was believed to exist. On the contrary, the Committee on the Judiciary in that convention recommended some restriction, by requiring a two-thirds vote upon an address, and in the enforcement of the necessity of such an amendment, they declared that the powers under the Constitution as it stood, were of the broadest description. Mr. Webster himself declared in the convention, that under the Constitution all judges were liable to be removed on address, and no reasons need be given. The amendment was voted down, and thus the principle was confirmed and reestablished that the four branches of government should have the most unrestricted powers of removal. The fact that one of those branches of government, the council, which was at that time the creature of the legislature, is now elected by the people, increases the safeguard erected around the judiciary.

With the powers of the State government established, the committee found as reasons for the address they have reported, that Edward Greely Loring, in violation of the *spirit* of the law of 1843, while Judge of Probate, acted as commissioner in the rendition of Anthony Burns. They found that he participated in said trial in opposition to the spirit of the resolves of the legislature of 1850.

They found that by the law of 1855, he became incapicitated from holding the office of Judge of Probate, and that also in direct controvention of that law, he now holds the offices of judge and commissioner.

They found that in direct resistance of the wishes of the people, as expressed through their representatives in two addresses to the Governor, and in open defiance and contempt of the sentiment of the Commonwealth, Judge Loring is today United States Commissioner. The committee believe that the honor and dignity of the State require his removal.

No one else was prepared to speak, and as the question is specially assigned for tomorrow at 1 P. M., the discussion was dropped.

The consideration of the address for the removal of Judge Loring, was resumed.

Mr. BAILEY of Worcester, advocated the adoption of the Address, in an earnest speech.

Mr. HAYNES of Middlesex, followed in support of the Address.

[At 4 o'clock, the special assignment,—the consideration of the proposed alteration of the tenure of State offices,—was further postponed until tomorrow afternoon at 3 o'clock.]

Mr. PARKER of Suffolk, opposed the Address. He said it is only called for by that feeble train who follow the Liberator and its editor; who dream of anti-slavery by night and talk of it by day; whose only hope of Heaven is of a place where negro souls will be on a par with white ones, not for any pleasure or glory therein, but for the verification of their theory of equality. The speaker warned the Senate against any contact with fanaticism. He maintained that the proposed removal was a party matter, adopted by the Banks party as a step to power, and said that if the party to which he had the honor to belong (the democrats) should gain the power, the advocates of this measure must be content to see it followed as a precedent. He begged the Senate not to be governed by the abolitionists.

Mr. BRANNING of Berkshire, denied that the friends of the measure acted in any degree, in fear of the abolitionists. He urged several reasons why

in his opinion the Address should be adopted.

Mr. BAILEY of Worcester, further advocated the Address.

Mr. BONNEY of Middlesex, expressed his desire that Judge Loring should be removed. He thought, however, that the Senate should express its motives for asking for the removal, and moved the adoption of the following amendment, as an amendment to the Address:—

Because the said Edward Greeley Loring, in violation of the provisions of the 13th section of the 489th chapter of the Acts of 1855, while holding the said office of Judge of Probate, an office of honor, trust and emolument, under the laws of this Commonwealth, at the same time holds the office of United States Commissioner, an office which qualifies him to issue warrants and grant certificates under the Act of Congress, approved September 18, 1850, entitled "An Act to amend and supplementary to An Act respecting fugitives from justice, and persons escaping from the service of their masters;" and

Because the said Edward Greeley Loring, while holding the said office of Judge of Probate, a judicial office under the Constitution and laws of this Commonwealth, has continued for more than ten days after the passage of the 489th Chapter of the Acts of the year 1855, to wit: ever since the 21st day of May in the year 1855, to hold the office of United States Commissioner, and therefore, according to the provisions of the 14th section of said chapter of the Acts of the year 1855, is deemed to have violated good behavior, has given reason for loss of public confidence, and furnished sufficient cause for removal.

The amendment was discussed at some length, the debate partaking chiefly of a personal character.

The orders of the day were laid on the table.

Massachusetts Legislature.

[Reported for the Boston Daily Advertiser.]

SENATE.

WEDNESDAY, March 17.—The Senate met at 10 A. M. Prayer by the House Chaplain.

The orders of the day were taken up.

The first matter was the consideration of the Address to the Governor for the removal of Edward Greeley Loring from the office of Judge of Probate for the County of Suffolk. [Amendment proposed by Mr. BONNEY, pending.]

Mr. HOLBROOK of Norfolk, maintained that the petitions for removal did not represent public sentiment. He had examined a petition from Weymouth, bearing 800 signatures, and found the names of 191 voters (out of 1640 in the town), 195 boys and non-residents, and 414 females from the cradle upwards.

Mr. REED of Bristol, opposed the Address. He said it was no party matter, but one in which the whole character of the judiciary was at stake. He held that the removal was wholly illegal and unconstitutional, and that there was no incompatibility in the two offices held by Judge Loring. The direct tendency of the Address is to destroy the independence of the Judiciary.

Mr. STONE of Essex, opposed the Address. [His speech is printed upon the fourth page.]

Mr. BAILEY of Worcester, advocated the Address. He answered the arguments of the previous speakers, and adduced some new arguments in favor of the Address.

At one o'clock Mr. USHER of Middlesex, moved a reconsideration of the vote assigning that hour for taking the question. Lost, 9 to 17.

The question was then upon Mr. BONNEY's amendment, (setting forth the reasons for the Address.) Mr. PARKER of Suffolk, rose to a point of order, that the amendment, being an impeachment, could not be acted upon by the House. The PRESIDENT ruled that it was too late to entertain the point of order.

Mr. EARLE of Worcester, proposed to amend Mr. BONNEY's amendment by inserting after the specifications, the words "and for other good and sufficient reasons." Rejected.

Mr. FROST of Suffolk, moved to amend the amendment by adding the following words:—

Because he has exercised a judicial act as an officer of the United States, under the last paragraph of the third section of the Constitution of the United States.

The amendment was rejected.

The question being put. Mr. BONNEY's amendment was rejected by a vote of 10 to 28, as follows:—

YEAS.—Messrs. Bonney, Esty, Felton, Merrick, Phelps, Reed, Stone, Swift, Turner, Usher,—10

NAYS.—Messrs. Adams, Allen, Bagg, Bailey, Bliss, Boyden, Branning, Cornell, Crane, Davis, Earle, Ellis, Fabens, Frost, Greene, Haynes, Holbrook, Hooper, Ingalls, Jenkins, Knight, Metcalf, Morissey, Parker, Porter, Prince, Sawyer, Walker.—28.

[Mr. FIELD of Worcester, the only absentee, is detained by illness.]

The question was then put upon the adoption of the Address, in concurrence with the House. The Address was so adopted, by a vote of 24 to 14, as follows:—

YEAS.—Messrs. Adams, Allen, Bagg, Bailey, Boyden, Branning, Cornell, Crane, Davis, Earle, Fabens, Felton, Greene, Haynes, Ingalls, Jenkins, Knight, Metcalf, Morissey, Phelps, Porter, Prince, Swift, Walker.—24.

NAYS.—Messrs. Bliss, Bonney, Ellis, Esty, Frost, Holbrook, Hooper, Merrick, Parker, Reed, Sawyer, Stone, Turner, Usher.—14.

At this point the Senate took a recess until half-past two.

REMOVAL OF JUDGE LORING.

The address to the Governor for the removal of Edward Greeley Loring from the office of the Judge of Probate for Suffolk, came down from the Senate, concurred in.

The SPEAKER appointed Messrs. CHURCHILL of Milton, PARKER of Worcester, STEVENS of Lowell, ARNOLD of Northampton, and RAY of Nantucket, as the committee on the part of the House to present the address to the Governor.

SPEECH OF HON. E. F. STONE, OF ESSEX, IN THE MASS. SENATE, WEDNESDAY, MARCH 17TH, ON THE ADDRESS FOR THE REMOVAL OF JUDGE LORING.

Mr. President—I shall vote against the passage of this address. In this, I shall miss the support of those Senators in whose judgment I am accustomed to confide, which, of itself, is sufficient to cause a misgiving in the soundness of my own opinion. For this reason, in addition to the intrinsic importance of the subject, I have examined the question carefully, the grounds upon which this measure proceeds, lest the result should show that I had hastily and inconsiderately adopted a wrong conclusion. I have read the reports of the Committee of this year, and of last year. I have traced the history of this proceeding as well as I could, and have availed myself of all the information which was within my reach I am opposed to the removal of Edward Greeley Loring, not because I have any desire to spare his feelings, I have no sympathy with him. My natural sense of justice, my inbred Anglo-Saxon instincts for freedom, which I share in common with my fellow-citizens who belong to the race which achieved the Magna Charta, the Habeas Corpus and the Declaration of Independence, were grievously outraged by the rendition of Anthony Burns.—And my love of liberty will not permit me to take a very lively interest in the welfare of the man whose decision was so abhorent to my feelings. He acted in that case, undoubtedly, according to the dictates of his own conscience, but his whole conduct showed that he was a poor representative of that hardy and invincible stock whose distinctive characteristic is the love of individual freedom. I have, I say, no sympathy, with him. But in a matter of this moment, involving high constitutional questions, and large considerations of public policy, it would ill become me or any other Senator to allow his judgment to be disturbed by any feelings or considerations of a personal or political nature which were not strictly pertinent to the issue.

To begin, Mr. President, I deny the moral right of the legislature—I make no question of the power—to remove Edward Greeley Loring from the office of Judge of Probate for the County of Suffolk. What is the power which it is proposed to exercise? It is found in the Constitution, Chapter 3, Art. 1, which declares that all judicial officers shall hold their offices during good behavior, provided, that the Governor, with the consent of the Council, may remove

them upon the address of both houses of the legislature. This power is in its terms unrestricted. It has no limit, save in the discretion of the parties who, by the Constitution are competent to exercise it. It is an extraordinary power, and capable of being used in such a manner as to entirely destroy the independence of the judiciary. It is a power which should be exercised with extreme caution and circumspection, and though unforeseen exigencies may occur which should justify its exercise, they should be clear, and strong, and pressing, and admitting of no other remedy. By virtue of this provision, it is competent for the government—I use the term in its legal sense—to remove any judge who has made himself obnoxious to the dominant pa without the form of a trial, or charge of miscondu without a reason, or a show of a reason, nay, be cause, perhaps, he has had the moral courage to resist the pressure of some sudden excitement,—because he has known no party and no patron, desirous only of administering entire and impartial justice, and mindful only of the trepidations of the balance,—assigning no reason for the proceeding, but, with the insolence of power, striking down with a blow the unfortunate judge, who, with a modest but intrepid courage, has dared to carry out his convic tions of duty. The upright and honorable judge, who can neither be seduced nor terrified, may be cashiered at the mere pleasure of the administration, to gratify the caprices or promote the purposes of power.

But it may be said that, whenever this power should be exercised, it must be presumed that it is exercised in good faith and for valid and legitimate reasons. And, I admit, that theoretically, in order to maintain the authority of the government, such would be the presumption in all cases. But while this would be the presumption which is inseparable from the very nature of the government which is supreme, it is yet true and undeniable, however inconsistent it may be in theory, that the government may be false to its trusts and abuse and misapply the powers conferred upon it. The theoretical infallibility of the supreme power of the State is embodied in the maxim that the King can do no wrong; but this is practically denied by making the ministers responsible for all the acts of the administration. The law of moral accountability applies to the king and the subject. There are no exempts. With the possession of power, come the responsibilities of power.

The history of this power affords a very little light upon the question of how it shall be exercised. But I submit that the better opinion is that it should only be applied in case a judge, without fault on his part, has become incapable of performing his judicial functions by reason of physical or mental disability or other cause. Where a judge has been guilty of misbehavior or malfeasance in office, or whenever his conduct is such that it can be reached by impeachment, impeachment is the proper remedy—the remedy congenial with the spirit of free institutions.

It may be said that a judge can be of no service after he has lost the public confidence, and that if a judge without fault in any criminal sense, but by a mere error in judgment, or the declaration of opinions, contrary to the moral sense of the community in which he lives, has the misfortune to offend the conscience of the public, so as to forfeit their respect and good opinion, then the Legislature would be justified in requesting his removal. It is, sir, undoubtedly, very desirable that a judge should stand well in the affections and opinions of the people. Next to the actual administration of the law in its purity and integrity, it is important that it should be administered to the satisfaction of the people. It is not enough that he is learned and upright, that he is no respector of persons—he must have the confidence of the people, or, as it has been well said, "he will bear the sword in vain." I am not prepared to say that a case of this kind might not occur in an extraordinary case—which would justify the exercise of this power. But it would be rare. Such, however, is not this case. It is not pretended that Judge Loring does not administer the duties of his office, not only correctly and according to law, but to the satisfaction of the people who live within his jurisdiction.

What is the real ground of this proceeding to get rid of Mr. Loring as Judge of Probate? I submit, Mr. President, that when we come to penetrate to the bottom of the matter, we find that this untiring opposition to him springs from his action in the Burns case. The first attempt in 1855 to remove him was put upon that ground specifically and exclusively. The law of 1855 which has been passed since is a mere device—a mere expedient—to give the color of law to a measure which failed upon its own merits.

How does this question stand, sir, upon the proof? Upon what ground do the committee, in their report, propose to put this address? They say, in their report, Mr. President, in substance that they are in favor of the removal of Edward Greeley Loring from his office of Judge of Probate; first, because there is an inherent incompatibility between those two offices of Judge of Probate and of Commissioner of the United States, secondly, because there is a legislative incompatibility, created by the law of 1855.

Well, now, first as to the inherent incompatibility, a point very fully developed by the Senator from Bristol, [Mr. Reed], and upon which I do not propose to say a great deal. And in passing upon this question it is important to remember the facts connected with this case. Edward Greeley Loring, as appears from the report of the committee, was appointed Commissioner of the United States in 1840. He was appointed Judge of Probate in 1847; and in 1850 the Fugitive Slave Act, so called, was passed by the Congress of the United States. We find, therefore, upon looking at these facts, that while the committee report that there is an inherent incompatibility between these two offices, the Legislature of this Commonwealth appointed Edward Greely Loring to the office of Judge of Probate, when he at the time was holding the office of United States Commissioner. And the committee, Mr. President, in their report, said that the duties imposed upon the Commissioner in 1840, though enlarged by Congress subsequently, were of such a character that, perhaps no valid reason existed why the offices of Judge of Probate and Commissioner of the United States should not be held, and their separate functions discharged, by one and the same person. Mr. President, they felt, they knew the pressure of the argument, they knew very well that there was no force, no necessity in this pretended inherent incompatibility; and they found it necessary, in order to give the mere semblance of consistency to that position, that they should state in their report that up to the time of his appointment in 1840 there was no such incompatibility. How was the office of United States Commissioner enlarged subsequently to 1840, when he was appointed. Why, sir, the same year of his appointment, 1848, the jurisdiction of a Commissioner under the laws of the United States was somewhat enlarged, by allowing him to pass upon cases of extradition of fugitives from foreign countries. And with that exception, so far as I can ascertain from examination of the statutes, the jurisdiction of the United States Commissioners in 1848, when Judge Loring was appointed, under the laws of this Commonwealth, Judge of Probate, was substantially the same as it is today, and therefore this pretended inherent incompatibility is an after-thought, a discovery, to meet the exigency of this case.

And what do the committee put in support of this proposition? They put a possible case, a case almost unimmaginable, of a slave mother dying in Massachusetts, and leaving children in regard to whom it might be necessary to apply to the Judge of Probate for the County of Suffolk to be appointed as guardian. They put that case, sir, a case almost impossible, only not impossible, in order to justify their position. Then they put the other case of the Judge of Probate holding his court. This point, Mr. Pres,

dent, has been fully argued, and ably argued, by the Senator from Bristol; the uncertainty, the insupposable nature of this proposition I think has been fully exposed by him. I say, therefore, that there is no force in the position that these two offices are inherently incompatible. Inherently incompatible, Mr. President! Why, sir, when was that proposition heard, up to this time? Can you find it in the reports of last year? in the reports of 1855? Can you find it anywhere except in the reports of the committee of this legislature, and on the arguments submitted this year. To be sure, the fact is implied in the law of 1855; but I submit, Mr. President, that no reasonable man, no fair man, can read the law of 1855, and say that the legislature passed that law because they thought that the two offices were incompatible. They passed it to nullify the fugitive slave law of the United States. And there is no man in this Commonwealth who has a more thorough detestation of the fugitive slave law than I; but the law of 1855 is, in my judgment, as indefensible as the fugitive slave act. The only advantage that has, is that while the other was passed for slavery, that was for liberty. But in my opinion they both violate established principles of jurisprudence. This idea, then, of inherent incompatibility, is an after-thought, purely. This idea of a legislative incompatibility is presented in the report—a legislative incompatibility created by the law of 1855. Now, Mr. President, the legislative incompatibility of course rests upon substantially the same ground as the inherent incompatibility. It must be assumed that the law of 1855 was, in this respect, simply declaratory, enunciating a principle which was valid independent of the law. And, Mr. President, in regard to the validity of the law of 1855, there men,—intelligent, sensible men,—who entertain, honestly, constitutional doubts in respect to it. And the committee of last year, composed of able men, composed of men, also, who were familiar with the principles of jurisprudence and of constitutional law, pronounced this law—the majority of that committee pronounced this law—unconstitutional in its bearings upon this question; because, they said, and, I think, with a great deal of force, that if the law of 1855 was to apply to the case of Judge Loring, it was, in effect, a mandate to him to abdicate his office. And it is very difficult to discriminate between the power of the legislature to remove a judicial officer directly, when that officer is, by the Constitution, not within the reach of the legislature directly, the tenure being during good behavior, and the power of the Legislature to accomplish the same object indirectly, by passing a law which declares the office to be incompatible with some other office.

I say, therefore, that that law, in its application to the Judiciary, is not to be urged as a reason for the removal of Judge Loring from his office. Do the Committee urge it as a reason? Will any man say upon what ground they put this measure? It is said that they put it upon the ground of inherent and of legislative incompatibility. And when I say that, I am saying that they put it upon this ground so far as they put it upon any ground at all; for Mr. President, they fail altogether to put it unequivocally and manfully upon any ground.—

But they conclude their Report with this statement:—

"They do not feel obliged to base the grounds for his removal upon the law of 1855, and, indeed, to establish the entire validity of these grounds; in their opinion it is not necessary to regard that law, except so far as it is declaratory of the sentiments of the people. If that law is constitutional, it is sufficient to say that its violation is a valid reason for the address."

Why not say whether it is constitutional or not? Why put this case?

"If it is unconstitutional, they hold that the principle so lon acknowledged, which dictated its enactment, is also abundan cause and justification."

"The principle so long acknowledged." How acknowledged? I suppose they will say, Mr. President, that it was acknowledged by the law of 1843, and by the law of 1850. But there is one significant fact connected with the history of this case. When the first attempt was made to remove Judge Loring, in 1855, when the people of this Commonwealth were incensed and indignant with his conduct in the case of Anthony Burns, and were determined, if the thing could be done legally, to drive him from his office, then what did they say? That he ought to be removed because of [illegible]ncompatibility? Did they urge, in support of that measure, that he had violated the principle of inherent incompatibility, by holding his office year after year? Was that the complaint? No, sir. The attempt to remove him in that year, to my mind, is perfectly conclusive in regard to the real motive and spirit which animate the men who stimulate and quicken this movement. It was put altogether upon the ground of his connection with that case. And the charge was, that "while Judge of Probate, he still holds the office of Commissioner of the United States, in defiance of the sentiment of the Commonwealth."

I submit, Mr. President, in regard to the obscurity and ambiguity relative to the real ground upon which this measure should proceed,—and in saying this, I say nothing derogatory to the character of the committee,—that in my judgment they consider it the most expedient way to approach this question carefully, to avoid the assignment of any specific reason. That, I suppose, was, in their judgment, the best policy, under the circumstances of the case. But I think that it is hardly satisfactory, hardly becoming the dignity and character of our government, to remove a judicial officer without assigning the grounds of removal. It looks too arbitrary. It is too much like the autocrat, who, without form of law, enforces his will, and who has only to say that it is his pleasure that a thing shall be done, and it is done.

Mr. President, there is another consideration connected with this subject. It is urged here that there is a legislative incompatibility under the law of 1855. What is the law of 1855? That law referred to by the committee, proposed, in substance—I have it not at hand—that no man in this Commonwealth who is authorized, under the laws of the United States, to execute the Fugitive Slave Act, shall hold any office of honor, trust, or emolument in this Commonwealth. And by virtue of that provision, the committee say, it is competent for this legislature to remove Edward Greeley Loring. Now you will mark, Mr. President, that that provision does not, in terms, refer to any Judge of Probate; it simply declares that no man so authorized shall hold any office of honor, trust, or emolument, under the Commonwealth.

Now if, Mr. President, if this address is put honestly, *bona fide*, upon the ground of Judge Loring's violation of the law of 1855, section thirteenth, to which I have referred, then I ask why does not this legislature remove every judicial officer in the Commonwealth holding commission under the United States, and yet holding office of honor, trust, and emolument under the laws of this Commonwealth? There are many men in this State who hold office under the laws of the United States, who hold precisely the same commission that Edward Greeley Loring holds, and who also hold judicial offices under the laws of this Commonwealth. And yet, sir, is it proposed to impeach, is it proposed to punish, to disgrace, to remove from office any of those persons? No, sir; nobody proposes it. And why is it? It is because we are attempting to remove Edward Greeley Loring upon pretences. That is the reason, Mr. President; because no man—no man can give any valid reason why, if we are attempting to remove him in good faith, upon the ground here assigned, we should make an example of *him*, why we should pursue *him*, and hold *him* up to infamy, while we do not enforce the law impartially against all individuals who have broken it. It may be said, in answer, that no petition is presented for the removal of those other persons to whom I have referred, and that it is time for the Legislature to act when a complaint is made. Is that a satisfactory answer? Is it not the duty of this Legislature to take notice of the fact that there are individuals in this Commonwealth holding offices of honor and trust, who at the same time hold commissions under the United States? Are there no

members of this Legislature who know of the fact that there are such persons? And is it not the duty of men here who mean to execute this law in good faith, who mean what they say in this assignment of their reasons for the removal of Edward Greeley Loring from the office of Judge of Probate, is it not the duty of those men, are they not bound by every consideration of honor and good faith, to enforce this law against these other individuals? Are they not bound to submit an order, to this Board, of inquiry against them?

No, Mr. President, there is no truth in the pretence that we are attempting to remove Edward Greeley Loring because he has violated the thirteenth section of the act of 1855. We are nominally pretending to remove him for that reason, because we have been driven from one position to another; because we stood in 1855 upon the proposition that he violated the moral sense of the people of this Commonwealth in executing the Fugitive Slave Law; it is because we were defeated in that; it is because in 1857 we attempted to remove him upon the ground that he had violated the fourteenth section of the law of 1855, and were defeated upon that; and now we attempt to remove him, and what is the excuse today, sir? It is that he violated the thirteenth section of the laws of 1855.

Mr. President, does any sensible, fair-minded man believe that we are attempting to remove Edward Greeley Loring,—looking into the history of this transaction,—upon any other ground than merely because he executed the law termed the fugitive slave act? That is the reason, and everybody knows it. And it is, I submit, disgraceful to this legislature, it is disgraceful to any legislative body, to attempt to reach an object, to accomplish a purpose of this kind, by indirection. That is the policy of the diplomatist; that is the advice that Polonius gave to Laertes, I believe, to reach his end by indirection; but it is not, after all, creditable to a free people, who propose to go straight to their object, without disguise, or fraud, or misrepresentation.

I commenced, Mr. President, by stating that, in my judgment, we were attempting to remove Edward Greeley Loring because he executed the Fugitive Slave Law. I have considered, briefly, the othor reasons which have been assigned. I have called the attention of this Board to the fact that we have been driven from one position to another, and that finally we have taken our stand upon the position that he has violated the thirteenth section of the law of 1855. I have looked at those matters briefly, and I submit that I have shown that the real object of this proceeding against Mr. Loring is to remove him from office for the part he took in the case of Anthony Burns.

And let us look at that a moment, Sir. It is because he executed the Fugitive Slave Law, that we propose to punish him. And the Senator from Worcester yesterday stated that he did not approve of combining in the same person the functions of judge and of executioner. I suppose the report from which I quote was a correct report of his speech.

Mr. Bailey. *Mr. President.*—I protest against that being thought a correct report of my speech, in any sense whatever. I was not responsible for the report. It is *not* correct.

Mr. Stone—It was not an extended report; but merely a sketch of the gentleman's speech. I referred merely to that simple statement I there found, the remark that he did not approve of combining in the same person the functions of judge and executioner. [In his remarks at the close of Mr. Stone's speech, Mr. Bailey disclaimed having used that language.] Neither do I, Mr. President; but I think it is hardly satisfactory to say that Judge Loring, in applying the Fugitive Slave Law, under his commission as United States Commissioner, performed the office of an executioner. I know there is very little for him to do which is judicial; but I submit that it will not do for the republican party to say that in that he was doing the office of an executioner; for I believe that one of the doctrines of the republican party is that the United States Commissioners are judicial officers; and therefore not constitutionally appointed. It is because he executed the Fugitive Slave Law that we are to remove Judge Loring. Now it is not pretended by any one that in that case he acted improperly. I will retract that, I recollect that it *is* claimed, by some anti-slavery men, that he did act improperly, that he was not justified, upon the evidence, in the rendition of Anthony Burns. But, Mr. President, what I mean to say is this: I submit that if he was not justified upon the testimony, the most that can be said by the committee in that case is that he was guilty of an error of judgment. That is the whole of it. It is not pretended that he executed the law dishonestly, or corruptly, or from bad motives. But it is simply urged, by those most opposed to him, that the evidence in the case did not justify the decision. Now, sir, I submit that it is contrary to the genius and spirit of our institutions, both here and in England, to remove a man from judicial office, either by the power of removal vested in the Legislature and Executive, or by impeachment, for an error in judgment. Why, sir, in England, an extraordinary power is vested in the Supreme Court, in the Court of King's Bench, which it is competent for the judge to exercise where men in office could not be reached by the usual proceedings; but every lawyer knows that the Judges of the Court of King's Bench uniformly refuse to enforce that power unless it be a case which cannot be reached in any established mode; and that by the law of England and of this country for an error in judgment no man is liable to impeachment, and that no man shall be liable to removal by address. Why, sir, sometimes the power of removal may be resorted to because the law of the land will not reach the case, because the laws are inadequate. But who ever heard of thus removing a judicial officer for a mere error in judgment? Who ever heard, Mr. President, of removing a judicial officer, not because the laws were inadequate to settle the case, but because the laws upon principle, would not touch the case. That is the case before us. Upon the principles, the established principles of jurisprudence, I submit that it is incompetent—I use the term, of course, in its moral sense, because everybody knows that it is within the *legal* power of this body to do what they please, as to this power of removal, but it is not morally competent—for them to remove Edward Greeley Loring from the office of Judge of Probate, for an error in judgment.

Mr. President, there is another consideration which I wish to offer and it is this. We are called upon here to exercise a very extraordinary power, a power liable to abuse, a power which ought never to be applied except in cases where a judge is incapaciated from performing the duties of his office, by reason of some mental or physical disability. And the most accomplished jurists in the Commonwealth, the best constitutional lawyers, are of opinion that this power of removal ought to be limited to cases of disability where there was fault on the part of the officer himself. If there be any fault, as was said by the Senator from Bristol, if it be a case reached by impeachment, why, clearly, the man may be impeached. He should have an opportunity to be heard in his own defence, and, of course, to have the benefit of the principles of justice which apply to the case of a man charged with a criminal offence.

I have already alluded, sir, to the argument that this remedy may be applied in cases where a judge has lost the public confidence, and I need not here repeat my remarks upon that point. Next, undoubtedly, to administration of the law in its integrity, it is desirable that the judge should administer justice to the satisfaction of the people. But yet, viewing the liabilities of abuse, I submit that it is not safe to hold that under this power of removal it is right to remove a man merely on the ground of a loss of public confidence. For, sir, a man may lose the confidence of the public in the discharge of his duty, simply in doing an act that is unpopular, because he is impartial, because he is disinterested, because he has intrepid courage to apply the law independently of the feeling of the community.

Again, it seems to me that if we do this now, we do a thing that is unnecessary. It seems to me that we ought, in this matter, to look at the future. We ought to submit to consider whether it is necessary to make an example of Edward Greeley Loring, whether it be necessary to enforce this remedy, so extremely liable to abuse, and which ought to be exercised only upon important occasions at a time when, perhaps, there is no occasion for its exercise. It seems to me, Mr. President, under the circumstances of the case, that it is vindictive and cruel to pursue Edward Greeley Loring in this way. The men who stimulate the measure—who are they? Why, Sir, they are men who are fiery, hot-headed, wrong-headed—*I say* — anti-slavery men. And although I would not say anything disrespectful of those men, becausc I honor the sentiment, after all, the love of freedom, which animates them, yet it seems to me they are distinguished rather for zeal than for prudence. Sir, this class of men mean to have the satisfaction of removing Edward Greeley Loring from the office of Judge of Probate for the County of Suffolk, by force and violence; as was said in the other house, by the distinguished Representative from Taunton, [Mr. Morton, Senr.], there is a kind of savageness in the attack upon this man—they are determined not only to kill him, as he said, but to scalp him afterwards. The spirit exhibited by those men is not unlike that described in Shakespeare—

"Cut the head off, then cut the limbs,
Like wrath in death, and envy afterwards-"

Ay, sir, they mean to do it, they have already, as is well known, insisted upon it; they have enforced this measure, they have so arranged, I submit, Mr. Speaker, the order of business, with the view to have it: whatever else may occur at this session, they mean, at any rate, that Edward Greeley Loring shall be removed, directly, by the power of the legislature acting in its legitimate, constitutional way, not by any other method, whatever it may be.

Mr. President, I have submitted the considerations which will induce me to vote against the passage of this address. I have stated, Sir, that I am satisfied, upon the history of the case, that we are assuming to remove Edward Greeley Loring because he erred in his judgment in the execution of the Fugitive Slave Act, in the case of Anthony Burns; and, Sir, that, I believe, is the real reason, the real motive. I know that the Report sets forth no such reason; and it is very remarkable, Sir, it is very remarkable, that in 1855 an attempt should be made to remove Judge Loring upon this ground exclusively, and that the Committee of this year should very carefully abstain from any reference to it except by way of illustration. They have changed ground. They have assumed first one and then another position. But this ambiguity, this dodging, this taking first one and then another position, to obtain the removal of a judicial officer, first for one reason and then for another reason, I repeat, is disgraceful to this legislature, or any other legislative body. It may be said—it has been said—that we may remove him for no reason at all. Now, sir, in the language of Burke, I really think, "for wise men this is not judicious; for sober men not decent; for minds tinctured with humanity not mild and merciful." We ought—if we remove him at all—we ought to assign reasons. And I am, therefore, although opposed to the measure itself, in favor of the amendment submitted by the Senator from Middlesex [Mr. Bonney]. For it seems to me that if this is to pass it would be no more than decent to assign the reason upon which it has been passed.

Again, Mr. President, there is one other consideration, mentioned by the Senator from Bristol, who exhausted the subject. It may tend to impair the integrity of the party; it is a case in regard to which members of the party are divided. Why should this Legislature, insist upon enforcing this measure, at this juncture, when it is entirely unnecessary, disgracing a judicial officer gratuitously, when the party itself is not united upon the expediency of the measure? Why should we jeopardize the interests of the party by a measure upon the expediency and propriety of which we ourselves are unable to agree? It seems to me that it is unwise for gentlemen, under the circumstances, to desire to press it.

I shall vote against the measure. I object to this address, because it looks arbitrary and capricious, and unbecoming the dignity and character of a free government, to remove a judicial officer, without assigning distinctly the grounds of such removal.

I object to this address, because, if it seeks to remove Edward Greeley Loring from his office of Judge of Probate, on the ground that there is an inherent incompatibility between that office and the office of United States Commissioner, there is no such *practical* incompatibility as to justify the exercise of this power to the discredit of a judge who was appointed by the government of the State while he held the office of Commissioner.

I object to this address, because, if it seeks to remove Edward Greeley Loring upon the ground of a legislative incompatibility between the two offices which he now holds, its passage would sanction the assumption that it was competent for the Legislature to limit and confine, by a positive statute, the discretionary power which is, by the Constitution, vested in the four departments of the government; and because, if the statute is valid, we ought to enforce it indiscriminately, and impartially, and remove from office all persons who now hold the office of United States Commissioner, and also some office of honor, trust, or emolument, under the laws of this State.

I object to this address, because, if it seeks to remove Edward Greeley Loring on account of his connexion with the Burns case, so called, it seeks to remove a judicial officer for doing what he supposed to be his duty under the laws of the United States, or for an error in judgment, supposing that he adjudged the man a fugitive upon evidence which was not sufficient to support such a judgment.

I object to this adress, because, if it seeks to remove Edward Greeley Loring, for no specific reason, but simply because it is assumed that he has defied the public sentiment and offended the moral sense of the people, it will impair essentially the independence of the judiciary, which is the great safeguard of our liberties, by affording a precedent for the exercise of this power hereafter, for the eviction of a judiciary who shall not submit to the dictation of the dominant party.

Mr. President, I have said all that I wish to say. I have not the presumption to suppose that any words of mine will influence the action of any Senators of this Board. I have, however, the satisfaction of knowing that I have done all in my power to prevent the passage of this address. I love and honor the feelings and the sentiments of the people of Massachusetts as much as any man who inhabits it, but I will never lend my voice nor my vote to the consummation of a measure which is designed to disgrace and remove a judicial officer for a mere error in judgment, where he has followed the light of his own understanding, and the dictates of his own conscience.

REMARKS OF MR. ANDREW OF BOSTON, UPON THE ADDRESS FOR THE REMOVAL OF JUDGE LORING.

Mr. Speaker:—I oppose the motion of the gentleman from Newburyport (Gen. Cushing) to recommit the address, with directions to inquire into the expediency of impeachment, and whether any cause therefor exists. It implies either that the facts alleged in the report, if true, constitute no proper ground of impeachment; or else that the case before the house is one to which the method of removal by address ought never to be applied. Neither of these propositions can be true. It is competent for the government to remove a judge from office under circumstances which would neither require, nor justify, impeachment. If it was intended that impeachment alone should be resorted to, as the remedy of the people, then the provision for possible removal by address would have had no place, and could have no proper place in the Constitution. The first proposition which the motion seems to imply, then, cannot be true.

The complaint, Mr. Speaker, made against Judge Loring is *not* for misfeasance or malfeasance in the administration of justice, in the performance of the functions of the office of Judge of Probate. If there is anything objectionable urged against the judge, in his capacity of Judge of Probate of wills in the County of Suffolk, it is simply incidental to the main a legation, the main charge upon which this mighty petition of the people rests. The objection made is, that the people of Massachusetts judge it to be inconvenient and unsafe that a man holding a judicial office, called upon to perform the most delicate judicial functions as a judge of the Commonwealth of Massachusetts, acting under her laws, should also occupy an office which implies the performance of duties, and calls for the exercise of functions, (imperative on him, in the opinion of Judge Loring,) which not only come into conflict with the great heart, the great public sentiment, the conscience, and the judgment of the mass of all Massachusetts, but also in conflict with their lawful will, legislatively expressed. And I, sir, speaking for my own humble self; declaring the judgment of my own mind; speaking under all the responsibility that attaches to me as the representative of a constituency of this Commonwealth; discharging myself of all personal feeling or political prejudice (as I sincerely trust and believe); find it to be my duty,—notwithstanding the delicate relations which I hold, as a member of the Suffolk bar to that gentleman,—overcoming all the feeling, which might natural overshadow my judgment,—and which, I apprehend, I cannot prevent, for a single moment oppressing me,—and acting directly in conflict with the opinions, prejudices, and desires of personal friends and professional associates, whom I would not willingly wound,—I find it to be my duty, after long reflection, to declare that I believe there is *no way of escape*, (consistently either with our rights, our interest, or our honor), from the application of this precise remedy—*the removal by address.* I say that there is no alternative. The Judge of Probate for the County of Suffolk plants himself upon his own private interpretation of the law of 1855, upon his own private judgment, and what he deems to be his right and his duty. I take issue with him; I say—the majority of the people of this Commonwealth declared their will in the last State gubernatorial election: into the discussion incident to that election was thrown, by our opponents, this very question of the removal of Judge Loring. And the people expressed themselves of the opinion that this remedy ought to be resorted to, pursued, and applied.

There is no way of escape, consistently with the preservation of our rights, and our honor. The position of Judge of Probate under the laws of the Commonwealth, is incompatible with the performance of any such function as that required of the Fugitive Slave Commissioner. The Act of Congress of 1850, presents an entirely different case from that presented by the old Rendition Act of 1793, under which statute our own act of 1843 was passed. It was competent under that statute for State magistrates to act,—but it presented an entirely different case, a wholly different case. And yet, Mr. Speaker, I ask gentlemen on the floor of this House to remember that the legislature of Massachusetts forbade, by special legislation, the performance of any function under the Fugitive Slave Act of '93, on the part of any magistrate or officer, whether judicial, executive, or ministerial, created by the laws of the Commonwealth. The case presented by the Act of '93 is quite different from that presented by the Act of '50. And I will tell you why. It exhibits an incompatibility, staring, glaring, and flagrant; presenting, as it seems to me, no room for argument, question or doubt. Under the Act of 1793, a magistrate—assuming to issue a writ for the purpose of taking into custody an individual alleged to be a fugitive from bondage or service in another State,—being an officer or magistrate of Massachusetts, would be under the direct supervision of the supreme judicial tribunal. And habeas corpus, personal replevin, or whatever judicial process might be best adapted to the purpose of securing the rights of a person claiming to be a freeman,—in the actual possession of his liberty, claiming title to himself, up to the moment of his arrest,—would be entirely competent, would be entirely easy, would be entirely adapted to the preservation of his legal rights, and would protect him in his liberties.

But, mark you, Mr. Speaker, the attitude in which we stand to the law of 1850. Under the Act of 1850, we have a State magistrate, in the person of Judge Loring, invested with all the powers of a United States Commissioner, for the purpose of the recapture of persons claimed to be fugitive slaves. And he issues a process, in his capacity of United States Commissioner in favor of a claimant. The United States Marshal surrounds him with his *posse comitatus*, surrounds himself with a hundred men, clad in mail, sabre in hand, pistol in pocket, sword drawn, bayonet fixed. The United States marshal draws men from the navy yard, and from the fort in our harbor; and no State process can touch the man in his custody. Thus it is held. From the moment of seizure, (without endangering a collision of arms between the marshal, armed with what is claimed to be judicial process of the United States, and the sheriff, armed with a judicial process of Massachusetts,) there can be no process served fit to protect a freeman. That is where we stand.

A little boy—a young man, may be claimed by some one, clear from the Pacific—as a fugitive apprentice bound to labor in the gold mines of California. He may be arrested in the streets of Boston, charged with escape; he may be my son, Mr. Speaker, or yours, but the moment—the moment—the hand of the United States Marshal is laid upon his shoulder, holding in his other hand an alleged process of the United States Commissioner—that moment that boy is treated as if all the presumptions of law had been reversed. He is held as a prisoner, without bail or mainprize, without opportunity of consulting friend or counsel,—(except such as the Marshal chooses to accord him) He may be taken and carried off, without any opportunity given to him or to his friends to introduce testimony in his favor. His rights are to be decided upon depositions taken behind his back, without an opportunity of confronting the witness or of cross examination, or meeting the facts.—He has no chance of habeas corpus, (without armed collision;) no right of appealing even to the United States Circuit Court; he is without the possibility of writ of error, or of any other process adapted to an inquiry either into the facts alleged against him, or the correctness of the law held by the Commissioner. And Massachusetts herself—bound by all the honor of a State to protect him—lies powerless at the feet of a man whose whole judicial life is in the breath of the nostrils of another,—commissioned by nobody,—only a temporary officer of a Court having no certain tenure of office; carrying no commission in his pocket, with no salary; with no guaranty, either in the nature of the office which he fills or the character of the functions which he performs.

Now, Mr. Speaker, both as a man and as a lawyer, I affirm, with the most absolute certainty of conviction, that the day will necessarily come when it will be the unanimous judgment of the courts and of the profession;—that all such claims of power on the part of the United States, and of these inferior officers, are absolutely false, nugatory and void. It will be done; the courts will yet decide it. The time will come. Yes, sir, the time will come, when the Supreme Judicial Court of Massachusetts will hold, that, no process that can possibly issue from any tribunal, high or low, of federal jurisdiction,—adapted to the single purpose of catching, reclaiming and carrying off a fugitive slave,—can have any application whatever to a Massachusetts freeman;—and that the man on the Massachusetts soil, in the aspect of a man,—wearing the guise of humanity, possessing the attributes of humanity,—in the actual possession of his own body, claiming a title to himself, adversely to all other claimants, is *presumptively, prima facié*, FREE;—and that no fugitive-slave-process can touch him. I deny, Mr. Speaker, that any process adapted to carrying off a fugitive slave can apply to me. I admit that it may apply in South Carolina, in North Carolina, in Kentucky, in Alabama, and Mississippi—in those States where a black skin is *prima facie* evidence of servitude—where a black man or woman found astray in the street is as much the presumptive property of somebody, as a horse or an ox found astray. But I deny that it applies to any white man, under the law of any State. I deny that it applies even to any black man in any State, found in the immediate possession of a master, claiming title, where the law permits slavery.

I affirm that this Fugitive Slave Law, admitting—for the moment—all that has been claimed for its constitutionality, can never apply to any person excepting a black man in the slave States, and only a black man who is found out of the immediate possession of any master [illegible] courts [illegible]

they will have to decide so. Who could carry out the Fugitive Slave Bill in any slave State on this continent as it has been administered and carried out in Massachusetts? There is not force enough in the Federal Government, to apply and carry out the Fugitive Slave Bill of 1850 in Virginia as it has been carried out in Massachusetts! Let a man from Tennessee go into Virginia, with his affidavits and records taken before some magistrate of Tennessee, and let him march upon the tobacco field of a planter of Virginia, and undertake to seize, by process of a United States Commissioner, one of that planter's slaves out from under the driver's lash—of which, by possession, he has a title, as good by slave law, as yours is to the horse under your saddle; and, if he succeeds in carrying off the slave—claimed to be a fugitive from Tennessee—in defiance of a writ of replevin, on the part of the master in possession—I wish you would be kind enough to come and let me know it. It will be a curiosity to be remembered. This power strikes at the rights of the States and of the people all over the country, wherever there is a sentiment of liberty and a just appreciation of the rights of humanity, or even an intelligent notion of the right of property.

Now, Mr. Speaker, here are divers questions which the courts will, sometime or other, find it necessary to meet, and which will sometime arise, under circumstances favorable to their just decision. I hope the day for meeting these questions will not soon come; I hope it will be delayed until the public feeling shall have become more quiet; but a judicial decision upon it will come. It will come,—*it will come!* Yes, sir, IT WILL COME! And whenever a fugitive-slave-law-process is attempted to be served upon a man presumptively free,—as every man is in Massachusetts,—in the actual possession of his liberty, upon our soil, claiming title to himself as against all other persons, the courts of Massachusetts will have to meet it,—must meet it. And I claim, sir, that it is a part of the justest and most absolute conservatism, to forbid the judicial officers and magistrates of the State government to occupy such relations towards the federal government, as to complicate their position, and entangle their jurisdiction. Each man should stand or fall to his own master. Every citizen of the United States and of the Commonwealth of Massachusetts, every person entitled to apply for judicial process, is entitled to stand before a tribunal free to pass an untrammelled judgment; free to assert and insist upon his own true jurisdiction, and who can tell from which government his jurisdiction derived.

Your United States Government, Mr. Speaker, would not permit its officers to complicate their position. The Government of Massachusetts cannot, consistently with its own honor, allow the judicial officers of Massachusetts to complicate their position. If you permit it, you render it absolutely impossible that the institutions of America, that this combined, complex government, State and Federal, should be able to work itself out to its own natural results Whenever the time comes, this controversy will be settled peacefully; there will be no conflict excepting a judicial one; there will be no controversy of arms. It will be settled by the judgment of the courts; and I believe they will ultimately coincide. But you have two distinct classes of officers; and you cannot secure the proper working of our institutions, unless you keep these two independent judicial systems, and these two descriptions of officers, entirely separate and apart. You cannot permit a Judge of the Supreme Court of Massachusetts to act as a Judge of the United States Court. I refer not now to any prohibition or inhibition contained in the language of either Constitution. I say that you cannot do it consistently with the essential principles and character of this complicated frame of government. Neither, sir, can you permit any inferior magistrate of either government to complicate and mix up his jurisdiction.

I say, therefore, that by a necessity of the case, in my judgment, the rights, interests, safety, and honor of Massachusetts require that she should keep her own judiciary entirely unentangled with, entirely disconnected from, the performance, or possible performance, of any function under the laws of the United States, in the exercise of which, the laws and judicial process of the two jurisdictions may possibly come into conflict with each other. I oppose, therefore, the motion to re-commit offered by the gentleman from Newburyport. I think to adopt it would be to misconceive our case, and to misapprehend the transcendent questions of State policy and public law, that case involves.

Secondly. As to the implication that this is a case to which the remedy proposed, viz., removal by address, ought never to be applied. Why, Mr. Speaker, if the arguments already addressed to us are correct, then removal by impeachment would be impossible, although the facts were flagrantly correct, and true as charged. The facts are truly stated; and I maintain that the preservation of the rights, the "honor," (quoting the very word so frequently iterated and reiterated by the distinguished gentleman from Newburyport,) that the rights, the "honor," the future safety, the proper administration of the laws, of the people of Massachusetts, require the application of this immediate, this precise

Removal of Judge Loring.

To the Inhabitants of the County of Suffolk

Having been removed from the Probate Court of the County by the Governor of the State, on his allegation that I had disobeyed a constitutional statute, I seek to remove from my conduct an imputation made serious by the official position of my accuser.

The Legislative Act of 1855, c. 489, is a part of the history of the times. In that year the Executive of the State, upon the authoritative opinion of his constitutional legal adviser, the Attorney General of the State, refused his official sanction to the Act, on the ground that it was unconstitutional. In 1857, the Joint Committee of the Legislature reported that the Act was unconstitutional. In 1858 the Joint Committee of the Legislature disclaimed its use as an obligatory law, and the Senate by its vote refused to adopt it, as the reason of its action.

Under these circumstances, Governor Banks has forborne his constitutional right of seeking the opinion of the Supreme Judicial Court, upon the constftutionality of a statute thus discredited, and has made his own opinion on the question of law involved in it, the only avowed ground of his official and extreme procedure. If he has obtained any other opinion, it is nots hown to be elther of those, which the Constitution had provided for his guidance in matters of law, and which it has thus made official, and to be delivered under that official responsibility, which is the only defence of the public, against opinions purchased and moulded by corruption, for party purposes.

The Constitution of Massachusetts declares emphatically, and provides carefully for, the independence of the Judiciary; and to ensure it, it fixes the terms of tenure of judicial offices, and among other things for that end, it prescribes the incompatibilities of judicial offices and thus removes that subject from the action of the Legislature. For if the Legislature could anuul an incompatibility, declared by the Constitution, they could destroy its safeguards. And if the Legislature could create incompatibilities, not declared by the Constitution, they could baffle its purpose and destroy the independence of the Judiciary. For the power which can create incompatibilities of office for judges, controls the judiciary; it may prescribe to judges, the societies or parties to which they shall adhere, the property they may own, where they shall live, and what they shall wear. If the Legislature of Massachusetts cannot do all this, it is because they have not the power of declaring *any* incompatibility of judicial offices, for they must have the power altogether or not at all.

They have not the power, because the Constitution has itself regulated the matter;—because the Constitution has not expressly given it to them, and their possession of it would be inconsistent with and destructive to the avowed purpose of the Constitution in regard to the independence of the Judiciary. The Legislature may "erect and create judicatories," for they are expressly authorized so to do, but this is to appoint functions, not to declare incompatibilities, or the terms of judicial tenure, which for the judges of the judicatories they create, must be those and only those which the Constitution has prescribed.

The 13th section of the act of 1855, chap. 489, sought to create an incompatibility in judicial offices, and for the reasons I have stated I believed that it violated the Constitution, and therefore I did not obey it. If that section is constitutional my official position made my refusal to obey it, *misconduct in my office*, and punishable by impeachment, according to the forms prescribed by the Constitution for impeachable offences, and then my punishment without such constitutional forms, is in itself a flagrant infraction of the purpose and letter of the Constitution; for it involves, and is, a claim on the part of the Executive and the Legislature, to create incompatibilities of judicial offices—to dispense with trial by impeachment for impeachable offences—to determine conclusively the constitutionality of their own laws and to carry them into execution by their own processes. The probability and the peril of all this, will be the greatest, when the action of the Legislature of Massachusetts shall be controlled by a party, and her Executive shall be the prostitute of a party.

Neither the Executive nor the Legislature are the judges of the constitutionality of a law, for the action of others; and every magistrate, and every citizen, must determine that question for himself, subject to the decision of the judicial tribunal, made authoritative over him by the Constitution. The refusal to obey an unconstitutional statute, is the only lawful means by which its unconstitutionality can be determined and exposed; and it is only by obeying constitutional statutes and refusing to obey unconstitutional statutes, that citizens and magistrates can perform their duty, and fulfil their oaths, "to support the Constitution."

But the usurpation of the power to create incompatibilities of offices, threatens and assails not only the independence of the Judiciary, but the individual right of all the inhabitants of this Commonwealth, having such qualifications as are established by their "*frame of Government*," to hold public employments. For if the Legislature can create incompatibilities for one public employment regulated by the Constitution, they can for all. If they can create incompatibilities as to officers appointed by the Governor, they can create incompatibilities for officers elected by the people, and thus fetter and destroy that equality of right which the Constitution assures, for the power to declare qualifications for office is the power to declare who shall be officers.

Respectfully your fellow citizen,

EDWARD G. LORING.

Boston, March 27, 1858.

DAILY ADVERTISER.

BOSTON:

FRIDAY MORNING, MARCH 19, 1858.

The address of the two houses of the legislature to the governor requesting the removal of Edward G. Loring from the office of Judge of Probate for the county of Suffolk, was yesterday laid before His Excellency by the committee entrusted with it, who reported that the governor made answer that he would forthwith take the address into consideration, and would communicate with the House of Representatives upon the subject today. We learn (not officially, of course,) that the address was immediately laid before the Council without any expression of the governor's opinion or intentions, and that advisatory power consented to the removal by a vote of 7 to 2. It remains therefore with the governor alone, to conform to the request and advice of the three bodies who approve of the removal, or to refuse to do so, according to his conviction of the public interests.

We are of course unable to state what determination His Excellency will reach in this posture of affairs, and it is not worth while to venture a prophecy, since the fact itself will be known within a few hours after these lines meet the reader's eye. Nor have we any advice to offer to the governor; our opinions upon the question have been frequently expressed, and it would be unseemly as well as nugatory for us to reiterate them at this late hour in opposition to the counsel given by the three public bodies upon whom the Constitution has devolved the duty of aiding the governor in the performance of his official duty in such cases.

We desire, however, to remind our readers of the exact posture of affairs, by way of preparation for the announcement of the governor's determination, whatever it may be. It is important to observe that the part which Judge Loring took in the rendition of Anthony Burns forms no portion of their case, as stated by the most consistent and able of the advocates of removal. It is a fact, however, that the legislature, in 1855, among the mass of singular provisions of law, which, unwisely, as we think, but no less certainly, they saw fit to place upon the statute-book, inserted an express provision that no judge should continue to hold the office of United States commissioner. This provision of law stands by itself in a separate section of the enactment known as the personal liberty law. It may be admitted that other parts of that enactment are unconstitutional, as is unquestionably the case, and yet it by no means follows that this particular provision partakes of the unconstitutional character attaching to other sections and provisions.

Judge Loring regards this section as unconstitutional, and refuses to obey it. He rests his whole answer upon this ground. On the other hand, however, two gentlemen, members of the House of Representatives who have occupied seats upon the supreme bench,—the one in express terms and the other by careful reticence when questioned,—have indicated their opinion that the section is constitutional.

If the section be, in fact, a constitutional provision of law, the judge has plainly violated law. The same right of individual judgment which justifies him in pronouncing the section to be unconstitutional, and in refusing to obey it, gives to the governor the right of regarding it as constitutional, and of insisting upon obedience to its provisions, if in *his* judgment the section possesses this character. While we hope that the governor may view the subject in the same light as ourselves, we shall respect and applaud his free exercise of opinion in judging of the constitutionality of this provision of law, in the same way that we respect and applaud Judge Loring's free exercise of opinion in regarding the section as a nullity, and in refusing to be bound by its provisions.

We might even go farther, and suggest that the same legal presumption of the constitutionality of all enactments passed in conformity with the forms of the Constitution, until decided unconstitutional by judicial decision, which has frequently been adduced as a reason why all law-abiding citizens should obey the fugitive slave law of Congress, enforces and requires obedience to this act of the Massachusetts Legislature until its unconstitutionality has been decided by the Supreme Court of the State. As yet we have no such decision.

We have only further to point out that this question has been absolutely forced upon the present administration of the State government by the politicians and the presses who have pretended to be the most zealous in "protecting" Judge Loring, and in "preserving the independence of the judiciary." We simply speak what we know when we say that the republican party, not only leaders but rank-and-file, were willing and desirous to let the question lie aside. In this view, we ourselves abstained from its discussion the present year. This course would not suit the purposes of the opposition. When the New York Tribune (in the universal silence of the republican press of Massachusetts upon the subject) printed a fiery article urging the removal, the Boston Courier was the first and only paper in the State to give currency to the Tribune's article in this locality. When the petitions for the removal of Judge Loring were suffered to lie upon the table in the Senate, for weeks, with general consent of the republicans, the opposition leaders in both houses and in their presses were continually goading the majority with the most ingenious taunts, on every proper and improper occasion, to induce them to take up and consider the question. When the governor recommended, and an able committee of the legislature advocated, the

very natural and proper measure of the consolidation of the probate and insolvency courts (the realization of a favorite idea of our best men of all parties,) there was a universal cry from the would-be conservatives that this was a mere trick to evade the issue upon Judge Loring. *That* slander, at least, is effectually refuted. The consolidation bill is not yet passed.

We repeat that we know the most ardent, as well as the more moderate supporters of the administration, would have been quite willing to suffer this matter to be passed by quietly, if the opposition would have allowed. Neither the governor nor any of his adherents have courted the issue. But when the issue was made by the persistent efforts of the opposition, every member of the legislature came up to the question manfully and voted according to his conscience and his conviction of duty. It remains only for the governor to act under the request and advice of the House, Senate and Council under a like sense of the admonitions of his conscience and the convictions of his duty. He has met the question promptly; we have no fear that he will not act from an honest sense of duty, whatever may be his decision.

DAILY ADVERTISER.

BOSTON:

SATURDAY MORNING, MARCH 20, 1858.

Removal of Judge Loring.—The governor, yesterday, in conformity with the advice and consent of the Council, complied with the request of the two houses of the legislature, and removed Hon. Edward G. Loring from the office of Judge of Probate for the county of Suffolk. A precept to this effect was placed in the hands of the sheriff in the morning, and was served upon the judge about the hour of noon. The action of the governor and his reasons therefor, were announced to the legislature in a message which will be found in another column, and will engage the attention of every reader.

We need not say that we regret that this thing has happened. We regard the passage of the address by the legislature as the result of a prejudice unfounded in any basis of sound policy and unjust to the individual against whom it has been directed. We have feared likewise that the proceeding might prove an unfortunate precedent. Something of its effect in this respect, however, is likely to be mitigated by the calm and statesmanlike view of the case which is taken by the governor. He expressly disclaims acceding to the request of the legislature upon any other ground than the incompatibility of the two offices of Judge and Commissioner, the holding of which by the same person is prohibited by a provision of law which the Judge held to be unconstitutional and null, while the majority of the legislature and the governor exercising a like freedom of opinion in judging its character, regard it as constitutional and binding.

We say that we regret that the legislature were induced to pass the address. But in a representative government the thrice-repeated vote of three separate assemblies, a Council, Senate and House, all chosen from the people in annually recurring elections, must be supposed to mean something. The constitutional forms are not designed to obstruct, but to facilitate, the expression of the will of the people, to which, rightly ascertained and constitutionally expressed, the governors and the governed alike must bow.

With that part of His Excellency's message which recommends a modification of the barbarous crudities of the personal liberty act of 1855, we need scarcely say that we most cordially agree.

Judge Loring has no cause for personal disappointment at the issue of the long-protracted persecution (to use a word scarcely too strong,) from which he is now relieved. He has borne himself throughout with a firmness and manly independence that almost extorts praise even from his opponents; and during the whole progress of the affair not a breath of suspicion has dared to attach itself to the stainless purity of his private character

REMOVAL OF JUDGE LORING.

At a quarter before 12 o'clock a message was announced from the Governor. The orders of the day were laid upon the table, and the message announcing the executive compliance with the legislative address for the removal of Judge Loring, was read by the Clerk. [It may be found on the second page of this paper.]

Removal of Judge Loring.

GOVERNOR BANKS'S MESSAGE.

COMMONWEALTH OF MASSACHUSETTS.

Executive Department, Council Chamber.
Boston, March 19, 1858.

To the Senate and the House of Representatives:

An address of both houses of the Legislature was presented to me yesterday, by a committee appointed for that purpose, requesting the removal of Edward Greeley Loring, from the office of Judge of Probate for the County of Suffolk. The reasons which moved the Legislature to this request were not stated in the address. The power given to the executive department of the government upon address of both houses of the Legislature for the removal of notaries public, officers commissioned to command in the militia, and all judicial officers, is a power given without qualification, and its exercise is entrusted solely to the discretion of the legislative and executive branches of the government.

But inasmuch as other constitutional modes of procedure have been established to which recourse may be had in cases of misconduct or maladministration in office, and which admit of more extended opportunities of justification and defence, I am led to the conclusion that the legislature has had regard in this case to the incompatibility of offices, held by the Judge of Probate for the County of Suffolk, whose removal from office is requested. The expediency of providing by constitutional and legislative enactments, that certain offices of State governments shall be held incompatible with other and similar offices under the government of the United States, is maintained by the example of our own, as it is of that of other States

An act of the Legislature of this Commonwealth, passed on the 21st day of May, 1855, establishes and declares that certain offices under the government of the United States are incompatible with offices of honor, emolument, and trust in this Commonwealth Under that act, and especially under the 13th section of the act, it must be conceded that the office of Judge of Probate is incompatible, except for a limited term, with the office of United States Commissioner, under the acts of Congress "respecting fugitives from justice and persons escaping from the service of their masters." It is not material that the incompatibility of offices may have been declared subsequent to the creation of the court or the appointment of the incumbent officer. It is well established by legislative precedents that a court which is created by legislative authority may be changed at the will of the legislature both as it regards its jurisdiction and its officers.

So far as the Statute of 1855, ch. 489, affects the Judge who is made the subject of the address, it is simply to declare that a judicial officer of this Commonwealth shall not hold, at the same time, the office of United States Commissioner, which has been decided by the courts of this State and of the United States, to be in the nature of a judicial office. I entertain no doubt of the power of the Legislature to establish this incompatibility of public employments; and to this extent at least, I consider its exercise eminently wise and just. It is neither for the interest of the people of the United States nor of this Commonwealth, that the same persons should be invested at the same time with judicial authority under the Federal and State governments.

This principle of incompatibility of offices is fully recognized in the Constitution and in the legislative acts of the Commonwealth, and having been embodied in the act of 1855, to which I have referred, the people of the State have thought it proper that it should be observed. The Judge of Probate for the county of Suffolk, entertaining a different view of his rights and duties to the government and people, has neglected to comply with the provisions of the statute. Different Legislatures, have by address to the Executive branch of the government, requested his removal from an office which he thus held in contravention of law, and without signal effort for its modification or repeal, as often as the Legislature has requested his removal, he has reässerted his purpose and position, conscientiously, I have no doubt, and firmly, in language which I cannot interpret otherwise than as manifesting a fixed resolution to disregard and in effect to nullify a statute provision of the Commonwealth.

For this reason—no official opinion of his entering into my consideration of the question, and no official act constituting an element in the judgment I have formed—upon address of both houses of the Legislature constitutionally presented, and with consent of the Council I have removed Edward Greeley Loring, from the office of Judge of Probate for the County of Suffolk.

My attention having been thus called by the Legislature to the Statute of the 21st of May 1855, I should fail in my duty did I not request the reconsideration of some of its provisions with a view to their material modification and amendment.

Under a government so entirely free as our own, there is sometimes danger, that in moments of excitement a desire for the protection of personal rights, may incite us to forgetfulness, and even disregard of other rights of citizens and the State. The judgment of every man must compel him, theoretically at least, to acknowledge the superiority of political institutions, which spring from, and represent the people over every other form of government. But it is quite possible that in practice, considerate men may be led to distrust the ultimate success, and discredit the justice of such governments, because of their natural tendency to the disregard of equally important rights of different classes of men.

In a statute which is professedly framed to secure the rights of persons, especial care should be taken that no limitations of power should be permanently established that are not essential to the great purpose of the act itself. To all provisions of the Act of 1855, to which I have referred, which are essential to the protection of the rights and liberties of the people of Massachusetts, under the Constitution of the Commonwealth, and of the United States, I cheerfully give my assent.

In my judgment it is not only expedient but necessary, for the government of the United States, as well as of the separate States, that in practice and in legislation it should be declared to be incompetent for the same person at the same time to exercise judicial authority under Federal and State governments. The delicate lines of power that mark the separation of State and Federal jurisdiction absolutely demand that the judicial functions of the two governments should not be represented in the same officer. To so much of the statute of 1855 as makes it incompatible for a judicial officer of this Commonwealth to hold a judicial office under the government of the United States, or that of United States Commissioner, I think no well founded objection can be taken.

But I do not think it necessary that this incompatibility of employments should be extended to officers whose duties are chiefly ministerial, rather than judicial, as justices of the peace; to attorneys at law, to officers of the militia, or to various other persons, who may be said, in the language of the act, to hold offices "of honor, trust or emolument under the laws of this Commonwealth." No incapacity to hold office, and no disqualification to receive appointment should be pronounced against its citizens except upon grounds of public necessity. Such necessity does not exist, in my judgment, with regard to the offices last named, neither will the exercise of the power avail anything whatever, against the legislative, executive, or judicial authority of the United States.

If it be the purpose of this Commonwealth to impress upon individuals or States its opinions, its object should be not to restrict, but to enlarge the legal capacity and power of its people. It cannot be assumed upon any just principle that every citizen of Massachusetts who shall hold the office of United States commissioner will feel bound, because he is in sympathy with its sentiments or possesses the confidence of its people, harshly to adjudge every fact against the personal liberty of every suppliant for justice, or to interpret the provisions of every act of the general government as within its constitutional power.

It cannot justly be assumed, without proof, that the protection of the rights of any fugitive or stranger, requires that a disqualification for holding office shall be pronounced against all those who sympathize with, and possess the confidence of the people of this State, or that every semblance and symbol of authority shall be pressed by our own act into the hands of those who sympathize neither with the fugitive nor the State. Still less is it to be assumed, that there can never be a change in the administration of the general government, or in the construction of its statutes.

The Constitution of the Commonwealth confers upon the Governor, with consent of the Council, upon address of both houses of the Legislature, authority to remove certain civil and military officers. Through all amendments of the organic law, this provision has remained without limitation or change, and enables the people to carry into full and immediate effect against any officer of the government, that provision of the Bill of Rights which declares that "in order to prevent those who are vested with authority from becoming oppressors, the people have a right at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life." In different sections of the act of 1855, chap. 489, there is an attempt to set forth reasons or facts which will justify succeeding Legislatures in the impeachment of public officers or their removal by address. It is manifest that no Legislature can enlarge or restrict the power of removal or impeachment which the Constitution refers solely to the discretion of each succeeding Le-

gislature. I suggest the inquiry if such provisions of this act should not be repealed.

The eleventh section of the same statute provides that any person who shall "act as counsel or attorney for any claimant of any alleged fugitive from service or labor, shall be deemed to have resigned any commission from the Commonwealth that he may possess, and he shall therefore be incapacitated from appearing as counsel or attorney in the Courts of this Commonwealth." It appears to me, that this provision indicates a distrust, on the part of the people, not only of the courts but also of the legal profession, which has no sufficient foundation, and that it is inconsistent with the dignity as it is with the professional traditions of the State with which in this connection, the illustrious names of Adams and Quincy are inseparably associated.

The constitution provides that the governor of the commonwealth for the time being shall be commander-in-chief of the army and navy, and of all the military forces of the State by sea and land, and the statute gives to the governor, and also to other military and civil officers, authority to call out the militia in cases of war, insurrection, tumults or mobs, and every subordinate officer and private is required to obey orders thus issued, upon penalty of being cashiered or subjected to other punishment by fine and imprisonment. The act of 1855, ch. 489, sec. 16, declares that any member of the volunteer militia who shall act in any manner, in the seizure, detention or rendition of any person for the reason that he is claimed as a fugitive from service or labor, "shall be punished by a fine of not less than one thousand and not exceeding two thousand dollars, and by imprisonment in the *State Prison* for not less than one, nor more than two years." There is in these different provisions of the constitution and laws, a divided duty, which it is impossible for the subordinate officer and soldier to recognize and perform. Every order issued from this department of the government to the military forces of the State, must be obeyed. I recommend, therefore, that the statute be so amended as to relieve subordinate officers and privates of the volunteer militia from the heavy penalties to which they are subjected by the provisions of the 16th section, and that such legislation as shall be deemed necessary for the public welfare, in this regard, shall be made effective by limiting the power of military and civil officers, in calling out the militia in cases of invasion, insurrection or popular tumult, or in such other cases as the Legislature may deem expedient.

I present these considerations to the Legislature upon this important subject with great deference, and respectfully request thereto, such attention as the advanced state of public business will permit.

NATHANIEL P. BANKS.

Mr. CHURCHILL of Milton, moved that the message be laid upon the table and printed. He afterwards withdrew the motion, and

Mr. ANDREW of Boston, moved that the message be referred to a special committee of nine on the part of the House, with such as the Senate may join.

On this motion Mr. CUSHING of Newburyport addressed the House as follows:—

I do not wish, sir, to interfere with any disposition of the message of his Excellency which the dominant interest of the House may deem to be fit. I will only say, that, in so far as regards the main object of the motion of the gentleman from Boston, —the reference of the message to a committee of some sort,—I entirely concur with his view that it should be referred to a committee—whether standing or special may be a question. I do not propose, I repeat, to interfere in any disposition of the message which may be deemed proper; but I desire to say two or three words upon the matter of the message.

And now, sir, the deed is done! Mr. DODGE of Chatham, shouted "Amen!" [Great applause and laughter.] I repeat, Mr. Speaker, and now the deed is done! Those sworn enemies of the Constitution—they who, for a religion of love have adopted a religion of hate—who, in their professed love of the black man, have allowed their emotions to degenerate into demoniac hatred of white men,—they, I say, Mr. Speaker, have succeeded; and this House, the Senate, the General Court, the Executive Council, and the Governor, have successively performed their part in striking down from the seat of justice in this Commonwealth, a judicial officer, because of the imputed disregard, by that officer of the alleged sentiment of the Commonwealth in reference to the law for the extradition of fugitives from service; that is, because of his conscientious execution of his duty to the Constitution and laws of the United States. And we here, Mr. Speaker, have in this Commonwealth the first example in our history—we have turned over that new page in the annals of time—in which it is demanded of a judicial officer in this Commonwealth, or of the United States, not that he shall execute the law according to his conviction of right, and as that law runs in the statute book and in the minds of men, but that he shall conform to the shifting breezes and changing tides of popular emotion respecting the popularity of a provision of the laws or of the Constitution. I say, we have turned over a new page in the annals of our Commonwealth and our country. We have entered upon that career of political attack upon the judicial establishments of the Commonwealth and the Union, the issue of which can only be foreseen in the all wise eye of God. We have entered upon that career of attack upon these establishments of the Union and the Commonwealth, because of the alleged unpopularity of their acts. And here is one victim—the first victim in this Commonwealth. I believe I may say,—for within my knowledge I can say,—it is the first victim of a judicial officer in these United States to the execution of his conscientious convictions of his sworn duty to the Constitution. And I ask myself, and I apprehend that the people of this Commonwealth will ask themselves now, "who else is rank and to be let blood" in this matter of attack upon the faithful performance of duty by a judicial officer of the Union and of the Commonwealth. I may imagine where the next blow is to be struck; nay, I know where the next blow is to be struck. Has it not been proclaimed in the ears of the country? Has it not been pronounced from that great seat of influence and authority, the Senate of the United States? Has it not been declared to these United States, that now, hereafter, the great object of emotion, that great change in the relations of men to the administration of justice which is to constitute issues in this country, and upon which men are to be divided into conflicting party bands of hostility in these United States—that the great change now to be brought upon this country is to strike down the organization, and with it, the judicial and constitutional independence of the Supreme Court of the United States?

I say we now know this. We have been admonished of it. I take warning that in the now approaching period of the political action of those of us who by circumstances may be called upon to play a part in the public affairs of the country,—I take warning—that we are to prepare for that great issue. It is presented to us formally, — deliberately,—not passionately presented to us,—I have said, in declarations from the Senate of the United States. I may go further, and say, in resolutions of legislative assembly after legislative assembly in the respective States of the Union, in which the spectacle is exhibited of the most passionate, vindictive, and I will add, the most unreasonable and unreasoning denunciation of the decisions of the Supreme Court of the United States. I take warning of that issue, and for myself I accept it as cheerfully, as gladly, as hopefully, as any question which was ever presented to me for discussion.

I have no doubt of that issue. I do not believe that the people of these United States, I do not believe that the people of any great State, in these United States, are prepared to bring on that day, when not only the lives and the honor, but the prop-

erty and interests as well, of every human being, shall be thrown into the arena of political contention, to be the football of party passions, and to be knocked to and fro by all the athletes of political competition who may descend into that arena of gladiatorship, in this State or these United States. I say, I do not believe it; and therefore, whilst I take warning that that issue has come, I enter upon that issue with hearty readiness to meet it, confident of the final decision thereupon by the people of the United States

And let me say that although we have been told from high authority,—told this day from that which is high authority in the counsels of this Commonwealth,—that we, the opposition in this State—and I suppose I am bound to add further, we the opposition in this Legislature—have forced this issue in this State, and above all, the result of that issue, upon the Legislature itself and upon the Executive, —I say, although we are told that, is it so, Mr. Speaker and members of this House? Is it true that when, here, this morning, upon my uttering the phrase, "the deed is done," a loud signification of applause passes through this hall,—in the face of that, to say nothing of what else passes before my eyes, am I to believe that the members of this House have done this deed, or contributed to its being done, not because in their conscientious convictions they deemed that it ought to be done, that it was right, but because we of the opposition have opposed it, have remonstrated against it, have reasoned against it, have entreated and pleaded against it? I say, I cannot believe, however high the authority for the suggestion, that this result has been produced by the opposition to the administration of the Commonwealth.

Mr. PITMAN of New Bedford.—If the gentleman will pardon me a word, I think, from his known candor, he will hardly hold the majority of this House responsible for the statement of the editor of of a newspaper.

Mr. CUSHING.—I did not say that the statement was made by an editor; I will repeat my remark. I said that we are told by what in my judgment, is high authority, that the action of this House was produced by certain influences. It is perfectly immaterial what that authority is. I make a supposition, if you will, for the purpose of contradicting that supposition. I find a suggestion anywhere, which in my judgment is to be characterized as coming from high authority, and I speak of that suggestion. And I repeat, I deny that anything done by the opposition to this measure has produced it. I deny it, in justice to this House, to the Senate, and to the Executive. No. Mr. Speaker: It may have been done, it may have been impelled upon this Legislature by other causes, external to it, which we all comprehend. I will not reiterate that consideration.

But however done, whether by exterior promptings, not to be recognized in this House, or whether by what are sometimes called the "taunts" of the opposition,—all that is immaterial. It has been done, and being done, I am sure the majority of this House will accept their share of the responsibility. It belongs to them. They may not shrink from it. They cannot discharge themselves of it. They will not desire to do so, and if they did, or could possibly wish to do so, they know perfectly well that there are those in this Commonwealth who will take care that that responsibility shall be thoroughly understood in its full weight of intensity, as well in this Commonwealth as throughout all the rest of the Union.

And having said that, Mr. Speaker, I would take my seat except that I cannot forbear to refer to that other part of the message of the Governor. I say I cannot forbear to refer to it, because I have been acting, as it were, thus far, during this session, in a sort of forlorn hope in the attempt to strike from the statute books of the Commonwealth a statute, odious in many of its provisions, and which now, the Governor of the Commonwealth—I will say, manfully and honorably tells us—deserve the deliberate consideration of the Legislature. Mr. Speaker, there is now pending before this House a motion of mine upon the subject of that statute. That motion has been, by a sort of common consent, postponed, to be discussed at the close of the session, in connection with those sublimated questions, those questions out of the regions of practicability, those questions which are to be discussed for the gratification of the sentiments and emotions of the House, with no intention or expectation on the part of anybody of producing practical effects, either here or elsewhere. I, Mr. Speaker, am no longer that helpless member of a minority, which has no power in this House,—not even enough to call the yeas and nays,—I am relieved from that predicament. I am now in the grateful position of having been the first advocate in this House of the views presented by the Governor in the message now before the House.

[Mr. ANDREW—You are thankful for small favors.]

Be it so. I rejoice, nevertheless, that there comes to the succor of truth and of justice, and to that of the honor of the State, the potential voice of the Governor of Massachusetts. If it were otherwise, I would have been prepared to say now, as, if the questions involved in the motion to repeal the so-called Personal Liberty Act were here pending, I would have been prepared to say, that as a magistrate of this Commonwealth, whatever may be printed in that statute book in derogation of my constitutional power as a magistrate of this Commonwealth, I would act upon my convictions of it, not only regardless, but in utter contempt, of that *brutum fulmen* of the unconstitutional provisions of that act of the Legislature. And I would say, as a member of the bar, that in any case in which any client, poor or rich, honored or dishonored, good or bad, should desire my professional services to vindicate his rights before any tribunal in this State, Federal or State, I would defy any prohibitory legislation of this Commonwealth.

And I will say further, that as an humble private as I now am, in the ranks of the militia of this Commonwealth, I am prepared upon all occasions to receive my orders for the performance of duty,—whether as a *posse comitatus* at the command of any Sheriff of this Commonwealth, or of the Marshal of the District of Massachusetts, or of the Commander-in-chief of the militia of Massachusetts,—I should be prepared to receive my orders from any of these proper legal authorities for the performance of my duty in the ranks, in like manner regardless of any prohibitory provision in that pretended statute of the State.

Thanks be to God, that in the face of all these waves of confusion and disorder, or anarchy of opinion, when it is not disorder of fact, which threatens to rush over this our happy, and I trust, after all, to be prosperous and happy land,—I say, thanks be to God, there is in the breast of the soldier that spirit of discipline and desire to perform his duty in his rank and place, there is that spirit of discipline, and that conscience of order, which renders him supreme above all influences of party or of passion, which might tend to swerve him from his duty to his country or to the Commonwealth.

And I have only therefore to say further, Mr. Speaker, that I rejoice to find associated with an act which, in my judgment, is the first blemish, the first tarnish, the first stain spot cast by Executive power upon the white robes of the Judiciary of the Commonwealth,—that associated with this act there is at least a recommendation to this legislature that the unconstitutional, the odious, the tyrannical, the abominable provisions of that so-called Personal Liberty Act, which is in fact falsely named, and is a Personal Slavery Act to the white men of this Commonwealth, I say, that those provisions now stand before the country and the Legislature under the ban of the condemnation of the present Governor of the Commonwealth.

Mr. ANDREW, of Boston, took the floor, and spoke as follows:—

Mr. Speaker: When I rose to make a motion to refer the Message of His Excellency—which I thought the appropriate motion for the occasion—I did not suppose that I was to awaken the echoes of this hall

by a spirited debate; much less that I, in the extreme infirmity of my own health, this morning, should find it needful to engage in one. But some of the language, and some of the thoughts, also, of the distinguished gentleman from Newburyport, demand of me, perhaps, a single word of reply.

I have been struck with admiration at the dexterity with which the gentleman has been endeavoring to steer between his dissatisfactions and his griefs upon the one side, and his expected exultation upon the other. (Laughter.) As to the latter part of the message of His Excellency the Governor, if I rightly apprehend it in the reading, I shall not find anything in it with which to differ. The gentleman and myself do not misunderstand the earlier part of the address, in which, as he expresses it, *the deed is done;* and when our friend from the Cape shouted "Amen!" amid the acclamations of the Hall, I thought his voice was only the first of the hundred thousand voices which will take up the shout, and ring it, echoing and re-echoing, from the hills of Berkshire to the sands of the Bay.

It is no triumph, Mr. Speaker, of any party, of any faction in the Commonwealth, as the gentleman from Newburyport would lead the country to believe. It is not a triumph of passion momentarily excited by passionate emotions, even though those emotions are stirred up by just thoughts and honest purposes and correct judgments. It is the result of no momentary effort. It is the result of three years of consistent, determined, and at last successful struggle to defend the rights and honor of our own Massachusetts—the rights and the honor of one of the sovereign States of this confederacy.

Now, at last, after three repetitions of the request by the representatives of the people, the Governor of the Commonwealth, acceding to an interpretation of the law, acceding to an interpretation of public policy—of *constitutional* public policy—with which the gentleman from Newburyport will not differ, which the gentleman from Newburyport has not and will not deny to be correct—correct in point of law, correct and true in point of constitutionality; the Constitution of the United States itself being the comman arbiter of us all—I say a Governor of the Commonwealth has, at last, had the courage to accomplish the deed, to vindicate the law of Massachusetts—the *constitutional* law of Massachusetts; to vindicate the policy of the Commonwealth; to assert and vindicate the will (legislatively expressed) of the people of the Commonwealth; and to establish an impassable barrier between the judicial departments of this combined, mixed government of ours, State and Federal, and thereby to aid the purpose and policy and object of that Personal Liberty act of 1853, which has just passed under the sharp criticism of the gentleman to whom I have the honor to reply. It would be extraordinary, Mr. Speaker, if in an act of legislation, combining so many particulars, and spread out through so many sections as the act of 1853, there should not be anything open to just remark and criticism. But when the Governor of the Commonwealth, in obedience to the policy of that act, in obedience to the scheme and system of State Administration marked out and first placed upon the Statute Book of the State by that act, and in obedience to the leading idea of that act, professing his allegiance to the principles admitted to be embodied and expressed in the personal liberty law, to the grand object of the law itself, "to preserve and protect the liberties of the people of Massachusetts;" when the Governor, from the high post of his responsibility and his power, obedient to the will of the people, and obedient to the request of the Legislature, performs a high and solemn ACT, in conformity with the very letter as well as the scope, and meaning, and purpose of the Statute, I think no member of the opposition on this floor need plume himself with any high hopes as to what is to be the policy of Massachusetts or of her Governor hereafter. I tell you that the Governor of this Commonwealth, and the Legislature of this Commonwealth, and the people of this Commonwealth, are all one. There is one sentiment pervading this great heart of Massachusetts, and that is, the sentiment of Liberty. There is one purpose which animates and inspires every heart, and that is the purpose to preserve and protect Liberty. There is one hope, and that is the hope of the final success and triumph of just judgment and sound reason over that daring conspiracy between a few Southern "fire-eaters," who, in 1850, inspired the Fugitive Slave Act of that unfortunate year, and that combination of whigs and democrats—from the North—who found it needful to bow down as Isachar, in the prophecy, "like the strong ass" beneath the burden (laughter) which they have found, already, too heavy to bear—*already too heavy to bear.* If any gentleman on this floor expects that one single provision of that infernal statute shall ever become, for a single moment, other than hated by Massachusetts, I reply to hm in the words of the poet:—

> "Lay not that flattering unction to your soul,
> That not your trespass but our madness speaks;
> It will but skin and film the ulcerous place;
> While rank corruption, mining all within,
> Infects unseen."

The administration of the Federal Government—those great and splendid intellects, as well as the lesser lights that surround and support it—(and in the first category I have the happiness now, as I always have done, to acknowledge the supremacy of our friend from Newburyport) may adhere to that Fugitive Slave Bill if they choose. They may make it a part of the policy of this Administration—as it was a part of the policy of the last, which has gone down to the dust "unwept, unhonored and unsung;" and as it was a part of the policy of that Administration which immediately preceded it, and which died in the throes of its parturition. (Laughter.) They may go on. They may achieve other triumphs, if you please, encouraged by temporary and momentary success, over the liberties of the people. They may ride rough-shod over freedom in the territories; backed up by the Supreme Court of the United States, composed of nine men, nearly all of them packed on to that bench by the slave power of the government—placed there, not for merit, but by reason of a preördained and predestinated subserviency. They may go on; but the day of reckoning is at hand. Behind that party stalks the headsman! (Sensation.) "Because judgment is not speedily executed against an evil work, therefore the hearts of the sons of men have it fully set in them to do evil." But the judgment will come. We have laid our ears today near enough to the ground to hear the muttering thunder of its terrible reverberations. Yes, sir; and he who, in that day of the reckoning of the people, shall have held out against the law, will only find that, like the murderer of Hamlet's father, he has been spared until, by the last crowning act of abominable tyranny, he shall be struck down—

> "That his heels may kick at heaven;
> And that his soul may be as damned and black
> As hell, whereto it goes."

It has been charged here today, sir, that this is the first act of any State Government of this Confederation, aiming against the independence of the judiciary—the first instance in which any judicial officer has been struck down in his place by the hand of power, for the reason of his obedience to the dictates of his own conscientious judgment, in the discharge of his duty. I take issue with my learned friend from Newburyport upon that statement of fact.

First, Mr. Speaker, it is not correct to charge that the Judge of Probate for the county of Suffolk has been removed for the performance of any act coming within the range of his judicial duties. If it were true, sir, it would not be the first. I remember that while the learned gentleman from Newburyport, from that lofty seat which he illustrated both by his learning and his intellect as well as by that hearty and powerful eloquence which always stimulates and delights us when exhibited upon this floor—was serving the government of the country in his capacity of Attorney-General of the United States—more remote than this from the scene of that action—a judge of the Supreme Judicial Court of the State of Maine was smitten down by the fiat of the Hunker Whigdom and National Democracy of the State of Maine—combined and coöperating together—for no other cause, (either alleged or pretended), than that

of passing judgment, contrary to the opinion of a legislative majority. I refer to the removal from office of Judge Woodbury Davis, of Portland, in the State of Maine. That is one act—within the recollection of the moment—of the removal of a Judge for the discharge of his duty; and our eloquent and able friend from Newburyport, although he found ample time, in the exercise of that diligence in which hardly a man on earth comes in competition with him, to denounce democratic and free soil coalitions in Massachusetts, made for the purpose of protecting the liberties of the people, and to "crush out," by a pronunciamento issued from the office of Attorney General, in Washington, the coalition of freesoilism and democracy, he found no time, no fit occasion, to issue any edict against that combination of whigs and national democrats who placed their hoofs upon the neck of Woodbury Davis, Justice of the Supreme Judicial Court of Maine, whose only offence it was, that he decided in favor of one Sheriff of the county of Lincoln, instead of another person claiming to be Sheriff of the same county. By means of that removal they interjected into the office of Sheriff of that county a man whose politics were agreeable to the Federal Administration, and ejaculated out of office a man whose politics were equally disagreeable to the Federal Administration, of which the distinguished gentleman from Newburyport was a member. That act was not denounced then; it has not been denounced to this day, unless the eloquent speech just made by the gentleman from Newburyport is to be considered as an act of late repentance of the omission (Laughter.)

I was glad to hear him proclaim his allegiance and duty as a citizen of Massachusetts. I doubt not he will always perform his duties—*unless he forgets them*,—as he did in the case of Judge Davis.

I was rejoiced to have the Governor of Massachusetts put everybody in mind that he is today conscious of his power as Supreme Commander of all the forces of the Commonwealth; and if Nathaniel P. Banks holds on—as I pray to God he may do—for some time after the year 1858 shall have gone to the ashes of the past, so long as he remembers and determines to execute his power, I care but little what acts you place upon the statute-books of Massachusetts, or what acts you erase from them, which were drawn and passed for quite a different age than the present, and for quite a different administration than the one under which we have now the happiness to live. [Applause.) Why, sir, we have grown more than the lifetime of a generation of men since the inauguration of Governor Gardner. [Loud laughter.)

Freedom, liberty, a just appreciation of the honor of the Commonwealth and the rights of the people, have taken a leap, as it were, out of the "Slough of Despond" on to the "Mountain of Deliverance." When the Sheriff of Massachusetts holds in his hand the writ of personal replevin, or of habeas corpus, issued out of the Supreme Judicial Court of Massachusetts, to take into his possession (in order that the question of his freedom or slavery may be tried) a man who, on the soil of Massachusetts, was in actual possession of his freedom up to the time of his seizure—*prima facie*, presumptively free—by all the traditions, all the maxims of the law in every country where civilized man dwells under the ægis and protection of law—and when the Sheriff of the county calls upon the *posse comitatus* to assist in the service of that writ, and when the Governor orders out the troops to protect that officer in the performance of his duty, I expect the pleasure of walking arm in arm with my learned friend from Newburyport. [Laughter and applause.]

[The Speaker here stated that the usual hour for adjournment had arrived, and suggested that Mr. ANDREW should finish his remarks in the afternoon. There was a very general call from all parts of the House of "Go on," "go on," but Mr. Andrew said]—

Mr. Speaker, I had about finished; and with the permission of the House will close these broken remarks with a single word. I echo the declaration of the gentleman from Newburyport, that *the deed is done!* It was *well* done—and it was done *quickly!* (Loud laughter and applause).

At the close of Mr. ANDREW's speech, the House took its usual recess.

The Removal of Judge Loring.

The precept for the removal of Judge Loring was issued from the office of the Secretary of the Commonwealth, at about half-past eleven o'clock yesterday morning. John M. Clark, Sheriff of Suffolk County, served the precept in due form, and endorsed a certificate of the fact upon the document, which was returned to the Secretary's office. The following is a copy of the precept, with the Sheriff's return:—

COMMONWEALTH OF MASSACHUSETTS.

To all persons to whom these presents may come,

GREETING:

Whereas, we did heretofore assign and constitute Edward G. Loring of Boston in our county of Suffolk, Judge of Probate for our county of Suffolk, according to the tenor of the commission granted to him for that purpose And whereas, the two Houses of the Legislature did, on the 18th day of March current, address His Excellency the Governor in the following terms:—

"The two branches of the Legislature, in General Court assembled, respectfully request that your Excellency would be pleased, with the consent of the Council, to remove Edward Greeley Loring from the office of Judge of Probate for the County of Suffolk."

Therefore know ye, that in pursuance of the said Address of the two Houses of the Legislature, and by and with the advice and consent of the Council, we have removed, and by these presents do wholly remove and discharge him, the said Edward Greeley Loring, from the said office and trust of Judge of Probate for the County of Suffolk.

And we command the Sheriff of the said county of Suffolk that without delay he make known to the said Edward Greeley Loring our pleasure, as hereinbefore expresssd, and that he make due return of this writ into the office of the Secretary of the Commonwealth.

Witness His Excellency Nathaniel P. Banks, our Governor, and our seal hereunto affixed, at Boston, the nineteenth day of March, in the year one thousand eight hundred and fifty-eight, and in the eighty-second year of the Independence of the United States of America.

By His Excellency the Governor, with the consent of the Council.

OLIVER WARNER,
Secretary of the Commonwealth.

SUFFOLK, ss., Boston March 19, 1858. In obedience to the command in the within precept, I this day, at 12 o'clock, and forty minutes, P. M, made known to Edward G. Loring, Esq., this precept by permitting him to read the within original, and by delivering to him at the same time an attested copy of the same.

I have also delivered an attested copy of the within precept to William C. Brown, Esq., the Register of Probate for the said county of Suffolk.

JOHN M. CLARK, Sheriff.

The Black Record of Infamy.

The feeling of intense and general indignation and disgust, entertained by all classes and parties in the state and country, growing out of the wanton and unjustifiable removal of Judge Loring, is having its effect even upon the conspirators and actors in this infamous measure. Like all guilty culprits whose misdeeds have been brought to light, these men are already quivering and shaking in view of the gathering wrath of an abused and insulted people, and which promises such an outpouring upon them as has never yet been seen or felt in old Massachusetts.

The day of reekoning and of just and well merited retribution is fast approaching, and Gov. Banks, with the entire band of affiliated black republiean vandals, will yet be tried and condemned by the potent voice of outraged justice. There is no eseape for them—and as sure as time itself endures, so eertain it is that just and adequate punishment will follow the commission of this nefarious deed.

No where else in the history of our eommonwealth, not even in the days of the whipping post and publie stoeks, can there be found a fitting parallel to this erowning deed of governmental vengeance and malignity. In comparison with it, and especially when we consider the *time* and *circumstances*, the whipping, cropping and banishment of the Quakers and Baptists, were but innoeent pastime and reereation.

These aets of our early aneestors, although they could not be justified or exeused, yet were not without a *shadow* of palliation. Unlike this "damning deed" of the removal and attempted degradation of Judge Loring, there was a *show* of reason for the eourse which was then pursued. Men were brought to the "whipping post," or had their ears "eropped" beeause of the commission of some "act," or the expression of certain "opinions" which were deemed heretical and unsafe to the "body politic." Not so in the matter of removal of Judge Loring, and no sueh justifieation or palliation ean be urged for those who have contributed to the eonsummation of this black republican persecution of an honest, upright and humane officer. This bold, bald act of Gov. Banks, and his satellites and minions in the legislature and eouneil, has not a single redeeming feature about it, but stands forth in all its deformity, naked and undisguised. As evidence of this we have the eonfession of Gov. Banks himself, in his message to the legislature, and a most miserable, as well as infamous confession it is too. Let us look at this

"Black Record of Infamy,"

and here it is :—

"No OFFICIAL OPINION OF HIS, entering into my consideration of the question, AND NO OFFICIAL ACT *constituting an element in the judgment I have formed*, upon address of both houses of the legislature, constitutionally presented, and with consent of the eouneil, I [illegible] Edward

Abolitionist Part 2 + March. 1858

Public Opinion on the Removal of Loring.

The journals, from all parts of the country, come freighted with the severest condemnation of the high-handed act of the removal of Judge Loring. It is uttered by all parties; and the removal is justly viewed as one of those demagogue acts which urgently call for rebuke. We cite a specimen of the manner in which this infamous measure is denounced by presses of all political complexions; and these specimens are increasing in number as fast as our exchanges from distant parts can bring them.

The New York Times, republican, says—

"This act of Governor Banks is the grossest attack upon the independence of the judiciary ever witnessed in the United States. It will long maintain, as we trust, its bad eminence." * * * "The act 'strikes a blow at the independence of courts, and tends to make the judiciary subservient to political excitements.'"

The Trenton True American says—

"We are pleased to find, however, that the infamous act is condemned by all, excepting those who for party purposes and political gain would sacrifice the dearest interests of the country and destroy her best institutions."

The Troy Whig says—

"Governor Banks has, at the request of the legislature of Massachusetts, removed Judge Loring from the office of probate judge or the county of Suffolk. * * This movement, venomous and vindictive from the start, triumphs at a time when the whole north is imploring the south, and not unsuccessfully, to be moderate, just, and true to the Union; when Bell, and Crittenden, and Wise, and hosts of good and true men throughout all the south, are rebuking *southern* ultraisms, and pleading for good neighborhood and peace with the north. * * We infer, from this last act, that Gov. Banks has concluded to depend on Massachusetts for whatever he may hope for in the future. He has yielded all claims and prospects, except as a local politician—all pretensions to statesmanship—cheaply, if not gracefully. Let him 'slide.'"

The New York Courier and Enquirer says:—

"Yet the removal of Judge Loring is much to be deplored both for its effect upon Massachusetts, and upon the country generally. For the movement for the removal has from the beginning been animated by a vindictive, venomous spirit. Those who really desired that he should be displaced were very few, until the leaders of the extreme and fanatical faction whom he had offended in the Burns matter, lashed those who were reasonably with them upon other subjects into a fury upon this. And that the vengeful character of the proceeding might be unmistakable, it was pushed on to the extreme issue after it had become entirely unnecessary as a means of relieving Judge Loring of his probate duties."

The Detroit Frec Press says:—

"The intensest fanaticism on this continent resides in the state of Massachusetts. A few years since it refused to tolerate Daniel Webster in Faneuil Hall. Its idols are Garrison and Phillips and Theodore Parker. Just now it has prevailed in the house of representatives, by a vote of 127 against 106, in carrying an 'address' to the governor asking that functionary to remove from office Judge Loring. Mr Loring is a judge of probate of Suffolk county. His offence is, that, three or four years since, as a commissioner of the United States, he executed the fugitive slave law in the city of Boston. It was his duty to execute it. His oath required that he should execute it. But the fanatics think he ought not to have executed it—that he ought to have disobeyed his oath or resigned his office, and they have never forgiven him that he did not do one or the other; and they have never ceased to persecute him."

The Journal of Commerce says—

"Gov. Banks gave his reasons for the removal of Judge Loring, in a message of considerable length. He recognizes the force of the 'personal liberty law,' which declares the holding of a state and United States office by the same person incompatible with the public interests. Having thus got rid of Judge Loring, he devotes half his message to showing that the provisions of that law, so far as they affect other officers, are wrong, and suggests their repeal. If this is not playing the demagogue, we do not understand the meaning of the term."

The Cincinnati Gazette (Republican) says of Gov. Banks—

"The refusal of his predecessor, on two occasions, to take this step, though requested by a large majority of the legislature, has met with general approval throughout the country. Even the leading ultra republicans of Massachusetts, many of them deprecated this action at this time. *But Banks was too thoroughly committed on the subject, evidently, in his recent canvass against Gardner, to allow of hesitation.* From this date, he will have a powerful party of moderate men in opposition to him at home, to say nothing of the influence of this act on his reputation abroad. The character and standing of Judge Loring, as a man, are such that his removal on the mere ground of sitting as a commissioner, under the fugitive slave law, will create a great sensation in Massachusetts, and excite no little indignation against the unlucky governor."

The New York News, democratic, in a scathing condemnation of Banks says:—

"The latest outrage perpetrated under the guise of law that we have to record is the removal of the Hon. E. G. Loring, probate judge and United States commissioner at Boston."

The Baltimore American, says:—

"It is more than persecution for opinion's sake. It invades the sanctuary of conscience and duty and says to all in judicial stations, 'not to the dictates of duty and conscience, nor of the law must you listen, but to the voice of popular fanaticism and its demands, under the penalty of the loss of your position.' It is, in fact, a radical and fatal blow aimed at the independence and integrity of the judiciary."

The New Haven Daily Register, democratic, says:—

"Poor old Massachusetts! prostrated at the foot of this modern Baal, she has dimmed the lustre of her revolutionary renown, and lost the respect of her sister states. The Hartford Press—abolition—applauds the act, and says "Massachusetts gave Mr Loring his choice—to be *a slave-catching commissioner*, or a judge of probate." Yet such papers, when accused of being abolitionists, deny the charge, and protest they 'do not desire to meddle with slavery in the states!' But in such an act as the removal of Loring, the cloven foot sticks out too palpably for contradiction, and shows a brotherhood in fanaticism which makes it crime to refuse to nullify the laws of the Union."

The Washington Union says—

"This shameful attack upon the judiciary, and the prostration of an able and unoffending judge, is the price paid by Governor Banks for a temporary continuance of the ascendency of black republicanism in his state. But it is the death knell of that party in Massachusetts and destroys his presidential aspirations. No judge-slayer who decapitates a magistrate for faithfully performing his duty can command the votes of the American people for the presidency. * * * * This announcement will be received with regret by all who respect honesty and fidelity to the laws, and will elicit applause from those only whose malice can be appeased by nothing less than the sacrifice of a victim."

The miserable subterfuge about the incompatibility of two offices, put forth in Banks's message—so insulting to popular intelligence—gets its deserts at the hands of all parties—republicans, democrats and Americans. Banks *knows*, he world knows, that Judge Loring was addressed out of office because he executed the fugitive slave law. A republican press, the New York Times, thus pillories Banks's slimsy address—

"Gov. Banks, in his message, takes pains to say, more ingeniously than ingenuously, that Judge L.'s Anthony Burns decision has nothing to do with the

removal: *"This assertion of his excellency was unnecessary and useless, only betraying the existence of the fact which it denies."*

The Newark Daily Advertiser, republican, says:—

"The Massachusetts legislature has at length found a governor subservient enough to remove Judge Loring. Mr Banks has done an act from which Gov. Gardner shrunk back ashamed. Whatever the reasons assigned, or rather the pretences may be, the judge's execution of the fugitive slave law was unquestionably the real ground of the removal. But for this he might have held the two offices of commissioner of the United States and judge of probate till doomsday, and the legislature of Massachusetts would never have troubled itself about his affairs. * * * We rather think this dismissal will be no punishment to that excellent magistrate, but if it is, no disgrace follows it, unless such as must belong to those who have conspired to inflict an unjust act of party malevolence."

Immolation of Judge Loring.—The Petersburg Intelligencer, referring to this shameful act, says—"Gov. Banks has, by this prostitution of his official functions, earned an immortal infamy. Every southern state should resent the act by statutes of non-intercourse with the recreant state of Massachusetts. We hope Virginia will lead the way."—*Richmond Dispatch.*

Boston Daily Courier.

Thursday Morning, March 25, 1858.

The part taken by Gov. Morton in the legislative proceedings, before the removal of Judge Loring, has been the subject of considerable comment and regret. Not that his previous political course had been, by any means, such as to create an assured conviction that he would do right in any given emergency that might arise. His reputation has always been that of a man whose ultimate motives were selfish, and whose natural taste for duplicity had not been controlled by a strong moral will, or improved by time. But his abilities have always given him much influence with his party, though he has never enjoyed their unqualified confidence. He was an excellent judge, in all cases and aspects in which no political element intervened; and the services he has rendered the State in this capacity are freshly and gratefully remembered. In the Constitutional Convention of 1853, he had taken a manly and independent course, and broken away from party ties when they began to lead him away from his convictions.

With these elements of hope and fear attending upon his steps, he entered the House of Representatives. What his course would be there, was a matter of some speculation and much interest. All acknowledged the influence he must wield there, from his venerable age, his high judicial reputation, and his political experience. In view of the fact that the address passed through the House by so small a majority, it is not too much to say that had Gov. Morton set his face against the measure with the energy and decision with which he opposed the unjust and iniquitous scheme of representation devised by the coalition in the Convention, it would not have been adopted. With how fair and how lasting a glory would he then have crowned his long and active life! Had he, with all the force of his still vigorous intellect, protested against this assault upon the independence of that judiciary of which he had been so distinguished an ornament, and thus averted the shame and degradation of Massachusetts, what praise and honor would have been his, and with what a self-approving glow of conscience would he have retired to the natural repose of old age.

But we fear that he took counsel of another class of suggestions, drawn from an inferior portion of his nature. Gov. Banks's position was just this. He was called upon to enforce a statute of Massachusetts which his predecessor had vetoed because he deemed it unconstitutional. Gov. Gardner had done in the premises, exactly what he should have done. He had taken counsel of his official legal adviser, the Attorney General, and acted upon the opinion he had received. Gov. Banks had need of the countenance of some legal authority to sustain him in the course he intended to take. He wanted some competent hand to build him a platform on which to stand. He might have had the opinion of the Attorney General. Why this was not asked does not appear: perhaps it would have been adverse to the Governor's wishes; and had it been favorable, it is doing the Attorney General no injustice to say that he has not yet attained that rank at the bar which gives great weight to his legal or constitutional opinions.

The Governor might also have had the opinion of the Supreme Judicial Court, if he had desired it. The Constitution provides that this may be had by the Governor and Council "upon important question of law, and upon solemn occasions." Here was "an important question of law," and surely "a solemn occasion," if there ever was one in the history of the State. Why the judges of the Supreme Court were not consulted, may be easily surmised. They do not at this moment represent the so-called "public sentiment" of Massachusetts.

Lastly, the Governor could lean upon the opinion of some private citizen eminent for his legal attainments, and possessing the proper weight of character. Gov. Morton was just the man for his purpose, What passed between the Governor and the ex-Governor—what inducements were brought to bear—what solicitations and arguments were used, we know not. All we know is that Gov. Morton, at the proper time, rose and pronounced the thirteenth section of the Personal Liberty Bill constitutional, thereby, beyond a doubt, fixing the course of a small body of conscientious persons who had thus far been wavering and uncertain. He gave no grounds for his opinion, but let it rest upon his personal authority, which was much the more discreet course.

Had the curtain fallen here, the course of the ex-Governor would have seemed inexplicable; but in the progress of the drama a new incident occurs, which, upon the doctrine of final causes, becomes of some importance. Mr. Marcus Morton, Jr.,

is nominated for the post of Judge of the Superior Court. This, too, singly considered, would have seemed a rather remarkable occurrence, in view of the fact that his claims for a judicial office have never been deemed very marked; but it often happens that two events which are wholly inexplicable when separately considered become perfectly intelligible when put together. The father gives an unexpected opinion; and the son is nominated the next day to an unexpected office. In the relation of cause and effect it often happens that the succession of time is reversed, and the later event is the moving spring of the former.

So far so good; all goes merry as a marriage bell. The father gives his support to a radical and unconstitutional movement of the executive, and the son is nominated to an honorable post. But now comes a frost, a killing frost: the Council reject the nomination, and the glittering prize which seemed so near the grasp is cruelly torn from it.

It is not for us to pronounce authoritatively upon the motives of public men. Gov. Morton may have acted from a strict sense of duty in giving the opinion that he did, and he may have spoken his real convictions. In this event, the rejection of his son —painful as it must be to a parental heart—will be taken by him as one of those inevitable misfortunes which are to be borne as patiently as may be, and will not affect the serene self approval with which he looks back upon the discharge of a duty. But if it be not so—if he consented to do violence to his convictions—if he have

> "Crooked the pregnant hinges of the knee,
> That thrift may follow fawning"—

how bitter must be his self-reproach, and how must the stings of a self-upbraiding conscience be sharpened by the sense that he had "filed his mind" for some other man's issue, not his own; and that no son of his would succeed him in a judicial seat. Men who sell themselves, their votes, or their opinions should be careful to get the money in hand before they part with the equivalent.

DAILY ADVERTISER.

BOSTON:

FRIDAY MORNING, MARCH 26, 1858.

We scarcely know how to speak in fitting terms of the leading editorial article which yesterday appeared in the Boston Courier.—This article is nothing less than the monstrous allegation that the venerable Marcus Morton, an ex-governor and ex-judge of our highest court of judicature, and now an honored member of the legislature, *was bribed by Governor Banks with the promise of a judicial appointment for his son* to express an opinion that the 13th section of the personal liberty act is constitutional, in order (as is alleged) to strengthen the governor in making the removal of Judge Loring. The allegation is too preposterous really to deserve serious attention, except that it may be rebuked as a monstrous excess of license, especially on the part of a press whose conductors know better what a common respect to the decencies of journalism demands. It is supported by no tittle of evidence except the fact that Marcus Morton, senior, expressed the opinion described, at about the same time that his son received the appointment. This not very pointed coincidence is not even remarkable, in view of the well-known antecedents of Mr. Morton, his Jeffersonian opinions on the legislative powers over the judiciary, which induced him to approve, in 1843, the bill to reduce the salaries of the supreme judges, although they seem to be specially protected in the Constitution; and in further view of the fact that a great many very able lawyers, whose sons have not been appointed judges, entertain the same opinion of the validity of section 13 of the personal liberty act. Of course it avails nothing with the authors of this scandalous charge that Mr. Morton voted against the removal of Judge Loring, or that he and his son have so uniformly taken opposite sides upon all political questions as to excite the remark in the House that whenever the yeas and nays are called, the successive responses to their names are almost uniformly returned precisely opposite to each other. For all this, the charge is deliberately paraded with all the accessories of poetical quotation and a pretence of virtuous indignation, that the father and son united with the governor in a corrupt combination—a charge the most scandalous we ever recollect to have seen broached in any print pretending to a respectable character.

It would be altogether supererogatory to formally deny this charge. We are persuaded that it can have no other effect than to cover its authors with disgrace. The parties whom it seeks to implicate stand too high to be injured by so baseless an attack. We repeat that we have no other motive in alluding to it this morning, than, in the name of honest journalism, to express our reprobation of a jealousy so mean and a partizan acerbity so sharp as to be willing to give currency to so gross a scandal—a thing which a year ago would have been impossible in Boston, and for which we are surprised to find even the Courier capable at the present day.

REFUGE OF OPPRESSION.

THE REMOVAL OF JUDGE LORING.

The House of Representatives, yesterday, did its part of an infamous deed. It voted to address the Governor for his removal! Why should Judge Loring be removed from his office? Has he committed any crime? Has he been guilty of any malfeasance in office? Let a Republican, Mr. Spooner, answer; he said in the debate that Judge Loring *could not be impeached, for he* 'HAD COMMITTED NO OFFENCE.'

Why, then, should Judge Loring be removed? Is it because of the howl of a squad of fanatics and traitors? Do such men as Garrison and Phillips represent the voice of the Commonwealth? Are not these men deadly hostile to our Constitution? And is it not the height of presumption to term *their* opinion the public sentiment of this State? Yet the majority in the House have bowed their necks to this infamous dictatorship, and covered themselves with indelible dishonor. Shame, where is thy blush?

The only offence that Judge Loring has committed is that of having executed a LAW OF CONGRESS. This is the ground of the hatred of abolitionism: he executed the Fugitive Slave Law! Now, these fanaties hold this doctrine: that, Constitution or no Constitution—law or no law—no fugitive slave shall be taken again from this State; and a majority of the House, in violating this address for a removal, assume this ground. In thus doing, this majority are traitors to the State and to the Union; and each one of this majority deserves to be held up before the community as an enemy to the Constitution of his country.

Here is tyranny as great as ever was seen under an overseer's lash! Men stand up in the House, avow that Judge Loring is unimpeachable as to character, ability and effieiency; he has violated no law, committed no offence; done no malfeasance in office, and yet they vote to remove him from office!!

If there be any public faith left in the hearts of this people, they will cover with shame and confusion the fanatics and demagogues who thus dare to sully the escutcheon of the old Bay State.—*Boston Post.*

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THE ADDRESS VOTED!

Yesterday, the Senate concurred with the House in the address for the removal of Judge Loring! The pitiful knot of men, women and children, headed by the leading abolition sowers of sedition and trumpeters of treason, have achieved a complete triumph in both branches! They have dictated the law to the American Republiean party. The address for removal, without any cause assigned, is before Governor Banks.

This shuffling politieian cannot shuffle off this ugly question now. The Governor is like a rat in a corner, which, when it cannot run, will turn and fight. The issue of removal is now in such a shape that there can be no more dodging on the part of Mr. Banks. He will be obliged to act on it.

The question Gov. Banks has to meet is a serious one. A small number of the people of this Commonwealth represented, through their leaders, as avowed traitors to the Federal Constitution; petitioners, as a Senator said, with treason at the top of their column, and infidelity at the bottom; at the most, only a squad of some six thousand out of a MILLION of population—have been crying, (to use the words of the Springfield *Republican*,) 'for vengeanee:' the party in the majority, with infamous cowardiee, have yielded to the cry · and hence the ADDRESS.

Thus an address is before Governor Banks for the removal of a Judge who has committed no offence, who is clear of fault, who, it is not pretended, is incapable of discharging the duties of his office, and who, it is admitted, cannot be impeached. To comply with such a foul, partisan demand, is to violate the spirit of the State Constitution. The occasion of this call is well known. Judge Loring executed an unpopular law of Congress, and hence is the cry of vengeance raised. Hence, to gratify it, is to play false with the Federal Constitution; it is to strike at the real independence of the Judiciary; it is to cower before the most ultra, mad, dangerous sentiment that ever was manifested in this country; it is to strike at the great and vital principle of the SUPREMACY OF LAW; it is to sink Massachusetts deeper than ever into the pit of disunion, and call upon her head anathemas more severe than any she has encountered. It is to tarnish her fame and damage her material interests.

Will Gov. Banks do the monstrous injustice of allowing the miserable fraetion of the people of this Commonwealth, who are screaming out for VENGEANCE on Judge Loring, to prevail? Is Gov. Banks about to allow this traitorous and pitiful MINORITY to achieve a triumph? Show any thing in the tyranny line like what this removal will be, in any thing done in Kansas. When and where was there ever seen such a savage hunt of a man as the people of Massaehusetts have seen in this hunt of Judge Loring? If N. P. Banks has a particle of patriotism about him, he wlil spurn this contemptible dictatorship; he will cast from him the vipers who are planting their poisonous fangs into the vitals of the body politic; and in imitation of the course of Gov. Gardner, he will flatly refuse to execute their traitorous behests.—*Boston Post, 18th.*

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The vote in the Senate on the address for the removal of Judge Loring stood 24 to 14. All who voted for the address were American Republicans. Of those opposed, eight were Republicans, two Gardner Americans. and four Democrats. Every Senator from Suffolk county, except Dr. Phelps, voted against removal.

The Legislature has done an unwise and arbitrary act in passing this address at the instance of a few misguided fanatics, supported by women and boys who have been cajoled into signing petitions for removal. It is an act which is not called for by public sentiment, and which will recoil upon its perpetrators. It is disingenuous, for no reasons are given in the address why Judge Loring should be removed, while those which were brought forward in the report of the Committee that reported the address have been pretty thoroughly refuted in the course of the discussion. As the address is worded, it ought to have little weight with the Executive. The Constitution never contemplated the removal of a Judge by a Governor, without he has before him some good and sufficient grounds for an act so momentous. But no causes for removal have been officially communicated to Gov. Banks, and if he complies with the request of the Legislature, he must do it without reasons, or go behind the record to find facts to justify a proceeding so arbitrary. The division of sentiment among the Republicans of the Legislature upon the question of removal—the known fact that many who voted for removal were really opposed to it—the very small number of legal voters who have petitioned for removal, and the faet that favorable aetion upon the address is not demanded by public sentiment, will fully justify the Governor in refusing to comply with the request of the Legislature. We hope that such will be his course.—*Boston Journal.*

Removal of Judge Loring. The Governor, yesterday, in conformity with the advice and consent of the Council, complied with the request of the two Houses of the Legislature, and removed Hon. Edward G. Loring from the office of Judge of Probate for the county of Suffolk. A precept to this effect was placed in the hands of the Sheriff in the morning, and was served upon the Judge about the hour of noon.

We need not say that we regret that this thing has happened. We regard the passage of the address by the Legislature as the result of *a prejudice* (!) unfounded in any basis of sound policy, and unjust to the individual against whom it has been directed (!) We have feared, likewise, that the proceeding might prove an unfortunate precedent. Something of its effect in this respect, however, is likely to be mitigated by the calm and statesmanlike view of the case which is taken by the Governor. He expressly disclaims acceding to the request of the Legislature upon any other ground than the incompatibility of the two offices of Judge and Commissioner, the holding of which by the same person is prohibited by a provision of law which the Judge held to be unconstitutional and null, while the majority of the Legislature and the Governor, exercising a like freedom of opinion in judging its character, regard it as constitutional and binding.

We say that we regret that the Legislature were induced to pass the address. But, in a representative government, the thrice-repeated vote of three separate assemblies, a Council, Senate and House, all chosen from the people in annually recurring elections, must be supposed to mean something. (!) The constitutional forms are not designed to obstruct, but to facilitate, the expression of the will of the people, to which, rightly ascertained and constitutionally expressed, the governors and the governed alike must bow.

With that part of His Excellency's message which recommends a modification of *the barbarous crudities of the Personal Liberty Act* of 1855, we need scarcely say that we most cordially agree.

Judge Loring has no cause for personal disappointment at the issue of the *long-protracted persecution*, (to use a word scarcely too strong,) from which he is now relieved. He has borne himself throughout with *a firmness and manly independence that almost extorts praise* (!) even from his opponents; and during the whole progress of the affair, not a breath of suspicion has dared to attach itself to the stainless purity of his private character, or the strict probity of his official career in the service of the Commonwealth.—*Boston Daily Advertiser.*

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We confess that we are greatly disappointed at this action of the Governor. We had hoped, and not without reason, that an executive whose views are eminently conservative would have resisted the tide of fanaticism whose angry billows have been surging against the fair fabric of our judiciary system. But we have have hoped in vain, and the invading flood has undermined one of its pillars. Whether we consider this act of the Governor from the stand-point of expediency or in the light of duty, we can see nothing which will justify the removal, and have strong forebodings that its consequences will be deplorable. (!!!)

The *atrocity* (!) of the Personal Liberty Law, taken as a whole, has fully justified the public and Judge Loring in treating it as a dead letter upon the statute book. The law, one of the sections of which Judge Loring has disregarded, is so monstrous, as a whole, that no one section can be separated and enforced, without a protest from those who have a regard for the honor of the Commonwealth and the rights of their fellow-citizens.

It is difficult to regard the enforcement of one section of the Personal Liberty Law in any other light than as a practical endorsement and enforcement of the whole law. The blow which has fallen upon Judge Loring may next strike down one of our most popular lawyers, or some of our most esteemed citizens, who, from a sense of duty and in obedience to laws of older date, and better entitled to respect, may be constrained to follow the example of Judge Loring, and disregard the provisions of the same law. The law has been justly regarded by the public as a dead letter. (!) It has shared the fate of the Fugitive Slave Law, (!!) and it would have been wise in the State administration had it refused from galvanizing one of its provisions into the mockery of life.

The Legislature, by the removal of Judge Loring, have arbitarily exercised a power of which they became wrongfully possessed. They may do something to repair the mischief by sweeping away or essentially modifying a law, the disregard of which has been sanctioned and approved by so large a portion of the public. Nothing less than this will prevent the summary removal of Judge Loring from becoming a disturbing element in future contests in this State, where unanimity of action among those of substantially the same views is essential to promote the interests of Republican freedom. If the fanaticism (!) which now gloats over its triumph is not reminded by some such act that the dominant party is conservative, it will become still more bold in its requirements, and will inevitably lead the party on to destruction.—*Boston Journal.*

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REMOVAL OF JUDGE LORING.

Should the demagogues and fanatics who now lead public sentiment in this State consummate this infamous measure, the old Commonwealth will indeed have fallen upon evil days. Let it be hoped that such appeals as were made yesterday by those opposed to the removal of Judge Loring, will not be without effect; but that common sense and patriotism will prevail over fanaticism and treason. . . . Withering, indeed, was the rebuke the Hon. Caleb Cushing administered to the crowd of fanatics and traitors represented by Garrison and Phillips, who had dared to represent themselves to be the public sentiment of Massachusetts.—*Boston Post*, 11*th inst.*

* * * * *

The worst political deed that Massachusetts has seen since her ratification of the Federal Constitution was done yesterday by our American Republican Governor. He, at the bidding of a radical and fanatical herd of abolitionists, removed Judge Loring from the office of Judge of Probate! This is striking a deadly blow at the independence of the judiciary and the supremacy of the laws of Congress in this Commonwealth.

Well and nobly have a minority of patriotic men, in both branches, fought against this terrible dictation of the Garrison traitors and this great political wrong of the American Republican party. For it they deserve and will receive the thanks of the candid and the patriotic among the people. Disgraceful and damning is it to the good name and to the material interests of this noble and once national Commonwealth, that the solid reason which this minority used proved of no avail to avert the public calamity. But such conclusive appeal, though it failed before such a majority, cannot fail in the long run. Let it be hoped that an indignant people will remember it in their political action and at the ballot box; and that they will hurl from power the men who disgrace the offices they hold.—*Boston Post*, 20*th inst.*

The Liberator.

NO UNION WITH SLAVEHOLDERS.

BOSTON, MARCH 26, 1858.

THE CONTUMACIOUS JUDGE REMOVED.—JUSTICE AND RIGHT TRIUMPHANT.

'The deed is done.' In spite of all the devices of the enemies of freedom to shield the contumacious Judge from popular condemnation, by insolent ridicule and scurrilous misrepresentation of the abolitionists—by changing the issue and perverting the record—by artful appeals to vulgar prejudice and complexional hatred—by unscrupulous lying and satanic malignity—by coaxing, wheedling, bullying, anathematizing the Republican party in this State, now declaring that it would not dare to do the deed, through skulking cowardice, and anon complimenting it as too upright and too patriotic to give any countenance to such a measure—EDWARD GREELEY LORING has been removed from the office of Judge of Probate for Suffolk County!

'The deed is done.' Twice did the people demand its performance, through their Senators and Representatives in General Court assembled, and through multitudinous petitions; twice did the General Court affirmatively respond, by an overwhelming majority; and twice did a double-dealing Governor dare to interpose his veto, and thwart the popular will. Again the question was submitted to the people; and, indignant at the treacherous and usurping course pursued by Gov. Gardner, they hurled him out of the gubernatorial chair, and placed Nathaniel P. Banks therein—confiding in his integrity, and electing for the third time a Legislature in accordance with their wishes. The result is as we have stated. In the House of Representatives, the vote for removal stood 127 to 101; in the Senate, 24 to 14; in the Council, 6 to 2. Gov. Banks has done his duty, promptly and unflinchingly, and the people will stand by him to the end.

'The deed is done.' And what a stirring up there is of all the pro-slavery serpents and wild beasts, both in and out of the Commonwealth! What spitting of venom, what shaking of rattles, what howlings of fury! They may rage, and foam, and menace, and attempt to strike with their poisonous fangs; they may 'gnaw their tongues for pain,' and twist in agony like scorpions surrounded by fire; but they are safely caged and chained—the days of their power are gone forever—'He that sitteth in the heavens shall laugh,' and THE PEOPLE SHALL HAVE THEM IN DERISION.—Elsewhere we have copied some of the comments of the *Post*, (edited by a purchased, mercenary tool of the slave oligarchy, whose hand every decent man should refuse to touch,) the *Courier*, (conducted by a trio of malignant scribblers, whose contempt for principle is matched only by their measureless conceit,) and the *Journal*, (true to its calculating, sordid, hunkerish spirit,)—showing into what spasms they have been thrown on seeing the laws of Massachusetts vindicated, the voice of the people obeyed, and a lawless Judge made to know that it is not for him to put the Commonwealth under his feet with impunity. In a few days, we shall doubtless obtain the expressions of the Southern journals, together with those of the satanic democratic presses generally, in regard to this removal; and these will furnish a rich supply for that department of villany in our paper, the 'Refuge of Oppression.'

'The deed is done.' The knowledge of it elicits the warmest congratulations of the friends of freedom universally. It will increase the moral power of the State, serve to exalt its character, carry dismay into the ranks of the enemy, and indicate to the South that the rod of her power is broken. The 'Amen' of the Cape Cod Representative will be echoed by millions of voices at the North; for, though it has been only a Probate Judge on trial, the circumstances attending his case have given it an interest and importance in every State in the Union, because of its relation to the tremendous struggle now going on in the land between Liberty and Slavery for complete supremacy.

Of the message of Gov. Banks, the *Post* says—'It is muddy, equivocal, evasive in thought, confused, illogical, unartist-like in expression: it reads like the production of a tyro, who had no ideas to announce,' &c. There is one part of it, at least, which even the *Post* must admit is in good plain English. It is as follows:—'Upon address of both houses of the Legislature, constitutionally presented, and with consent of the Council, *I have removed Edward Greeley Loring* from the office of Judge of Probate for the County of Suffolk.' Had all the other portions of the message been expressed in an unknown tongue, it would have been of no consequence. We admit that, as a whole, it is lacking in directness of purpose and clearness of expression, like every thing that emanates from that quarter, either through a cautious and diplomatic policy, or because Gov. Banks is deficient in literary skill and taste. It is much to be regretted that he recommends, *in such a connection and at such a time*, any modification of the Personal Liberty Bill; for it weakens the force of his official act, and has an appearance of wishing to conciliate a spirit that deserves no quarter. This recommendation, on his part, is wholly gratuitous; and as it proposes, virtually, to facilitate the capturing of slaves in Massachusetts, by removing the prohibitions now laid to prevent slave-catching complicity, we trust it will not be favorably regarded by the present Legislature. At the heel of the session, there is no time to act upon a subject of such vast importance.

On Tuesday last, an immense handbill was posted throughout the city, headed with an American eagle, opposite whose open beak was represented a caricatured negro in grotesque attitude, purporting to be the 'Portrait of the Distinguished Counsel, whose glowing eloquence moved the Gin-eral Court to assert the Dignity of the People.' It was distressingly 'patriotic,' and in the true high-falutin', spread-eagle, border-ruffian style—as follows:—

JUDGE LORING HAS BEEN REMOVED!

—

'THE DEED IS DONE!'

Men of Boston! Citizens of Massachusetts! Lovers of our Glorious Union! 'The deed is done!' The first great blow of fanaticism has been struck! An upright and just Judge of our Commonwealth has fallen. The enemies of the Union are triumphant. Treason sits unmasked in our Legislative Halls. Nullification is rampant in Massachusetts. Abolitionism controls our General Court, and 'the Union sliding' Governor obeys its edicts. Men of Massachusetts!

the honor of our ancient and beloved Commonwealth has been stained; her fair fame has been tarnished; her exalted position in the family of States has been degraded; her high reputation has been vitally attacked; the 'Bill of Rights' has been violated; the freedom of our Judiciary no longer exists.

Men of Massachusetts! White Men of Massachusetts! Will you submit to be trampled on by the enemies of your race? Will you longer permit the fanatical lovers of the black man to oppress you and degrade you? Are you ready to yield the influence of the Anglo-Saxon, and submit to that of the African? Has not the time arrived for you to assert your supremacy?

Citizens of Boston and Massachusetts! Are you no longer citizens of the United States? Are you no longer proud of the flag which is floating in every port in the world, and proclaiming to the nations of the earth the power and glory of the Republic? Has the love of the country which your fathers gave you grown cold? Has your patriotism vanished? Is your nationality gone? Are you ready to allow your beloved Commonwealth to be placed in hostility to the Union? Are you ready to endorse the motto and the watchwords of the Abolitionists, that 'the Constitution of the United States is a covenant with death and an agreement with hell!' Shall men who utter such sentiments govern you? If not—if the love of your country is still warm in your hearts—if the fires of patriotism still burn in your breasts—then arise in your strength, and open the

OLD CRADLE OF LIBERTY,

the glorious Hall of your fathers, and proclaim, in tones of thunder, that you will be free! that fanaticism shall no longer reign—that white men are supreme—that Massachusetts shall be regenerated.—Governor Banks once said, 'Let the Union slide!' What say you, citizens of Massachusetts?

The author of this vulgar and supremely ludicrous placard is not known; but as it fully expresses the spirit and feelings of the 'Hon.' Caleb Cushing, the editors of the *Post* and *Courier*, and others of that stripe, its paternity may be safely traced in that direction. Its bombastic language excited infinite merriment among the throngs attracted to give it a perusal. As to a meeting in Faneuil Hall, to sustain Judge Loring in his lawless conduct as against the people of Massachusetts, we should like to see the men come forward who are so lost to all decency and self-respect, so demoralized and demented, so profligate and desperate as to dare to place their names on the record of history as his advocates and defenders. He may well exclaim, 'Save me from my friends!'

"THE DEED DONE."

WHOEVER had been travelling in the United States in December, January and February last, would have had his curiosity continually awakened by such dialogues as these: "Why, what is the meaning of all this excitement in Massachusetts? What has that man in Boston done that the people are so incensed at?" And again: "What is at the bottom of all these petitions—every day half a thousand men demanding one man's removal from office? One would think a thief or a murderer had taken shelter among the Judges there, in Yankee land."

And so the story had to be told a million of times in reply—not in the measured tone of legislative speech or leading articles (measured that they may not be self-defeating)—but in the one brief, indignant, blighting breath that can make the voice *felt* through the noise of railroads and the hissing of enginery—the story of the Massachusetts Judge, selected at Washington as the tool of slavery extension, because Mr. Hammond Mr. Aiken and the rest of the great slaveholders, need a legally trained man, in honourable office, to lessen, by sharing, the disgrace of their social *status*, and to defeat the stratagems which common humanity finds itself *obliged* (*O shame!*) to use in Massachusetts when it would exercise the of asylum in behalf of a hunted fellow-creature! when it would shelter the innocent fugitive from the bloodhound law of the United States and its kennel-fed Commissioners; the story of the Boston Judge of Probate for widows and orphans, who was obliged to leave his widows and his orphans uncared for, because it was a great primary duty, in his eyes, to seize and send back in chains to bondage the helpless ones of the South; the story of the Boston gentleman, who made himself a slave-catcher for the good of trade, under the dictation of a servile set of manufacturers, grown gray in cotton-dust and sin; the story of the Northern professing Christian, who set slave law above the law of Christ and the law of Massachusetts, and broke every law of decency and humanity to make himself the whipper-in of the plantations.

"And this," men said in reply, "is why the name of Edward Greeley Loring is a common form of cursing in Massachusetts. This is why, for three years, they have followed him with unslaked indignation that saw Massachusetts put under martial law of the United States in 1855, for the enforcement of his cowardly and cruel decision, which sent from free soil to bondage a man free before the law; and *this* is why, for his sake, the office of United States Commissioner will henceforth mark the man that holds it as below the moral level of his fellow-citizens; and *this* is why that office disqualifies for every other; and *this* is why the Union has become dishonoured and hateful in the sight of good men, for all its offices have been, like this, disgraced, till they are only so many shameful slave-commissionerships."

But "the deed is done" that fixes the public eye on them all, and strengthens the public opinion to change their character by trampling down the scandal and casting out the men that disgrace them. Massachusetts, on the 19th inst., in General Court assembled, taught the United States a great and multiform lesson—the lesson that slavery and freedom are incompatible. It is not the first she has imparted on that theme, nor will it be the last. It is the line laid down as her part in her Bill of Rights and in her Constitution—in her politics and her religion. No matter where such lines *produce*, since they are sure to lead through Time's high places—through pleasant centuries to come, away from the slime and corruption of slavery.

A second lesson just taught by Massachusetts is the important one that it is the great legitimate function of a State to judge its Judges. They are not a State's masters, but its servants. They are neither independent of its power nor above its chastisement. They are but like other servants, to be honoured for their seat's sake while they merit honour, and to be shaken out of it in disgrace whenever their course makes ejection a duty to the bench.

The third great lesson that the United States have just received of Massachusetts is one in that noblest science of moral self-defence. She has doubly vindicated her State sovereignty—against encroachment from without and disobedience within—by ejecting from office the creature of the planters and their allies, the Boston traders and manufacturers, who has been sustained by them for years to defy her paramount jurisdiction. And this, too, is the lesson to the City of Boston, that the State of Massachusetts has been trying, since 1835, to teach, when three hundred chosen delegates from the anti-

slavery towns sought in vain through all the city and churches for a suitable place of meeting.

And again, Massachusetts has taught how to secure the honour of the Bench and an independent Judiciary.

We are not a people whose genius lies in Caricature There is not, in general, interest enough in the political concerns of a happy business people to pay for pictorial representations of any description. The gravelly shores must be protected from pillage, the river-fisheries must be regulated, the lamps on the headlands and in the cities must be duly supplied, the travel-track from the Atlantic to the Pacific must be marked out. It is all necessary and important, but affords small foothold for humour, wit or ridicule. But when a business people, in the prosecution of its aims, become mean, base, slavish, bloody, the better to prevail, the thing is too serious for humour, ridicule or wit. It has passed out of the laughing region of pictorial incongruities. Sin is no fit subject for caricature; least of all the deadly American sin, whose features it is beyond the reach of art to exaggerate. Hence we have no American *Punch*. Slavery paralyzes with horror the play of artistic faculties that must combine to create such a functionary.

But if shame and indignation would permit a true American to smile at anything in the dominions of the slaveholders, it would be at the babble and the posture-making they teach their tools. See, for example, a set of Boston gentlemen surrounding their bought up Judge—some in black, as "the cloth"—in uniform, as "the service"—or, *in chains*, as "the faculty"—some marked for "merchant princes" by little banker's bags, and some by little cotton-bags—and other some zealously manufacturing the newspapers and preparing the literature to suit this circle of peculiar provincials (whose real capital is somewhere in the Carolinas, Georgia or Louisiana). See these so-called Boston gentlemen looking on approvingly while the planter has their amiable friend by the hair, buckling the bloodhound's collar round his neck, and dragging him along, with the judicial bench to which he clings, to the seizure of a fellow-creature—gravely pleading, meanwhile, with Massachusetts, sitting queenly to condemn the deed in the chair of her legislative State, for the independence of the judiciary! How conscientious and how tender-hearted! How amiable and how kind is their servant! Is not their servant a dog since he did that thing? And what, then, are they who urged him on to do it? who stood by him in setting his own judgment above all that is called the judiciary in any civilized polity; thus insulting human nature in its most refined, most exalted, most Christian and gentlemanly estate, as the defender of the oppressed?

One glance shows that American politics are too sorry for jesting.

One may figure to oneself England, as a stout housekeeper, examining the new footman-premier with, "I fear, John, you may n't be strong enough for the place." One may even picture Louis Napoleon in a fright lest the crowing of the Gallic cock should awaken the British lion. But Caleb Cushing, feeding the American eagle with flesh of the flesh of Massachusetts, is a thing not to be painted for public amusement. It is written with loathing, and contempt, and shuddering indignation, in the heart and brain of every good man who has watched his ever blackening career from the fair promise of his youth to the threshold of his despised age.

The Legislature of Massachusetts has also, by its recent action, taught the States that PUBLIC OPINION is neither a sex. nor a colour, nor a legal vote. It is a POWER; with other which the legislator has nothing to do but to resist or obey, according to its wisdom and moral quality.

But once more: by the ejection of Loring, Massachusetts has taught many an indirect lesson. It could not fail to be so; that thing is good for nothing that is not good for something else. Her Legislature has taught her Republicans how to prevent the extension of slavery—nor hers alone. Wherever Missouri Democrats, or Kentucky slaveholders, or Carolina non-slaveholders are awakening to the great work of the nineteenth century, they hear, beneath the voice of Massachusetts sovereignty, the whisper of Massachusetts sympathy; and over all swells the clear, *certain* sound of Massachusetts morals and religion; hearing which, every man knows how to gird himself for the anti-slavery battle. It says to the whole land, "Meet slavery in every path and in every shape, and 'remove' it." It stands a Border Ruffian in Kansas—*remove* it. It sits a Chief Magistrate at Washington—*remove* it; a prejudiced pedagogue in the schools—*remove* it; in the Church, holding up "fellowship" as a weapon to destroy brotherhood—REMOVE it; at Washington, muffled up in ermine—REMOVE IT!

Since slaveholders and their creatures hear and thus interpret the great Massachusetts lesson of 1858, how much more shall the American Anti-Slavery Society, that has so long entertained (not unawares) that angel of Freedom,

> ——"whose breath hath lent
> A vigour to the instrument!"

One thing, too, the Legislature of Massachusetts has learned; all honour to its noble sense of what befits the functionary of a people so noble—whose legislators are its abolitionists, and its abolitionists its legislators! It has learned, as our American Anti-Slavery Society has done before it in these times, and as the fathers did in the past, to pay no heed to the voices of wealth, or place, or power. It has heeded, at this important crisis, only the voice of the fathers' blood, crying to it from the ground, "Stain not the glory of your worthy ancestors." It has been faithful to their adjuration, "Be wise in your deliberations and determined in your exertions for the preservation of your liberties." It has "rejected the dictates of passion and enlisted under the sacred banner of reason." It has "secured its rights and prevented the curses of posterity from being heaped upon its memory."

But more remains to be done; and the voice that, in 1772, evoked from the ground the blood of Vane and Hampden still cries to it from the near sacred sod! "If you, with united zeal and fortitude, oppose the torrent of oppression—if you feel the true fire of patriotism burning in your hearts—if you from your souls despise the most gaudy dress that slavery can wear" [*how much more the petty postmasterships, and overseerships, and tide-waiterships, and drivers'-berths!*]—"if you really prefer the lonely cottage, while blest with liberty, to gilded palaces surrounded with the ensigns of slavery, you may have the fullest assurance that slavery, with her whole accursed train, will hide her hideous head in confusion, shame and despair."

If anything could add to the satisfaction of a deed which is at once a homage to the past, a safeguard to the present and a pledge to the future, it would be the admirable grace and measure of the doing. The crowds from the city and the country round about, who, from time to time, composed the audience at those important sessions, were most deeply impressed by it. The public journals can give the words there uttered, but no report can do justice to the imposing effect. The anti-slavery feel-

ing had previously [illegible] its appropriate work in the field, without stint or measure. "Thus become in our primary meetings as Abolitionists. But in the Senate Chamber and in the Representatives' Hall, the Anti-Slavery feeling clothes itself in the proprieties of place, and sits in a legislative dignity of self-government that the world cannot match. This could not fail to be observed by every one who had felt the atmosphere of sleeping murder in the Senate, or seen the exhibition of drunken riot in the Representatives' chamber at Washington; or who had saddened in the "*morne silence*" of the permitted assemblages of despotism; or rejoiced in the flattering exactitude of the French Republican Chamber of Deputies; or excruciated in the hesitating utterance of an English House of Commons, where each man is so reasonably afraid that his neighbour may know more than himself, and where, save for a few local and personal interests, all are generally so much in the hands of the smooth audacious talker with hereditary claims.

Freedom and Humanity forget none of their advocates; but some may claim an especially honourable remembrance. The heart of every listener present will have thanked Mr. Pitman, of New Bedford, and will have felt that too much can hardly be said of the legal ability, the judicial discrimination, the argumentative closeness to the subject, flowing, with uncompromising moral rectitude, in perfect temper and constant courtesy, out of the easy fulness of a trained mind and a noble heart, which were brought by John A. Andrew, of Boston, to the service of the State on this occasion.

We hail it as the first of a new series of Legislative and Judicial triumphs, the last of which shall be the abolition of slavery.

THE REMOVAL OF LORING.

In the observations which we have made, in another column, upon this auspicious event, we have not marked with sufficient emphasis the fact that its achievement is primarily due to the persistency and fidelity of the Abolitionists in keeping the subject before the people and pressing it upon the attention of the Legislature. The pro-slavery men, in and out of the Legislature, who were bitterest by speech and pen against this righteous retribution, have endeavoured all along to hinder its having its due course by taunting those who were in favour of it as the tools and minions of the Abolitionists. This story was perpetually harped upon in the hope of provoking timid and time-serving souls to refuse to do a plain duty through the fear of an odious imputation. To whatever degree these efforts may have affected the minority that voted against the Address, we are glad to know that neither the fear of this reproach, nor yet the insidious appeals of sneaking Republican papers, like *The Springfield Republican* and *The Boston Journal*, to the selfish political fears of the dominant party, have availed to induce the majority to interpose between this culprit and the punishment he had invoked upon his head.

It is, indeed, true, in an important sense, that the Abolitionists of Massachusetts deserve the credit of bringing this offender to condign punishment. Had they not set on foot the movement for that end, and organized it, and carried it forward by their money and personal exertions, it is very likely that this edifying spectacle would never have been presented to the country. When Governor Gardner first refused to remove Judge Loring, in answer to the Address in 1855, Mr. Garrison promised the country that the attempt should succeed, reminded all concerned that delay was defeat, and warned them to stand out of the way or they would find the effects of their opposition redounding upon their own heads. And Mr. Phillips, no longer ago than last January, prophesied that the Massachusetts Anti-Slavery Society would yet write the epitaph of a Boston Judge. These prophecies have now historically come to pass. Still, the attempt to make the passage of the Address an act of submission and concession to the Abolitionists is a simple absurdity and a very palpable lie. The Abolitionists have kept the subject before the minds of the people of the State and prevented that oblivion which is too often permitted to gather over great, or mean, public crimes, and they took the necessary pains to procure a partial expression of the popular wish that this unjust Judge should have no longer the charge of the widows and orphans of the chief city of the State. Had they not done this, it is very possible that the act would have remained undone, for the lack of a proper concentration of the public sentiment. But the Removal is due, of course, to the consciousness on the part of the Legislature and the Governor that the will of the People demanded it, and that they demanded it because it was a just and right thing to do.

This portion of the history of Massachusetts is curious and instructive. The first Address was asked for and conceded on the ground of the unfitness of a man capable of consenting to be the tool of a slave-catcher to sit on the bench of a tribunal which was the refuge and defence of the most helpless class at home. Admitting that there must be a man found to act under the Constitution of the United States and send back in chains to torture and slavery men guilty only of loving liberty and risking all to obtain it, it was monstrous that he should be sought in the halls consecrated by the State to the comfort and succour of its widows and its orphans. Governor Gardner, however, refused this just and humane demand on the ground that there was no law making the two offices incompatible! As if the same highest law which would call for the removal of a drunkard or an adulterer from a post of such delicate functions did not apply with yet greater stringency to a case like this. The Legislature then passed the Personal Liberty bill, in which the two offices were declared incompatible, and passed it over the Governor's Veto. At the next election the swelling wave of Know-Nothingism that had borne Mr. Gardner on to fortune had not ebbed quite enough to leave him high and dry, and he was reëlected by a greatly reduced vote. In 1856 the Address was again petitioned for; but the Legislature took advantage of the lateness of the day of asking, to pass it over to their successors. The next year, the Fremont campaign absorbed all other interests, and Mr. Gardner, by adroit management and skilful duplicity, succeeded in obtaining Republican votes enough to elect him, when added to his own following. At the session of 1857 the petitioners presented themselves betimes, and the Address was voted by large majorities, and again rejected by Mr. Gardner. And now came the day of account. He went into the canvass last autumn almost on the single ground of this refusal, and he and all Hunkerdom at his heels demanded his reëlection as a proof of the approval of the State of his action. And Mr. Banks had 20,000 more votes than

he, and he slunk into insignificance and a broker's shop!

If ever a Governor and Legislature were elected for a specific purpose, Governor Banks and the present General Court of Massachusetts were chosen for the express business of removing Judge Loring. They have done this duty well, and they will receive the applause of their constituents and the approbation of the lovers of liberty everywhere for it. They have done, not what the Abolitionists proper, numerically few as they are, have asked for, but what the deliberate, settled opinion of the State demanded, after four years' deliberation, and an opinion which has grown in strength with every year. This result, among the many satisfactions which it brings along with it, is an excellent illustration of the operation of the Anti-Slavery Movement. It is due, as we have said before, to that movement, not on account of its numerical force at the polls or of the individual weight of its members in Church or State; but because of the fidelity with which it has asked for what ought to be granted, and the persistency with which it has compelled the attention of the people to that particular point. It is in this way that the Abolitionists of Massachusetts have obtained successively everything they have ever asked of their Legislature; because they have never asked for anything that right and justice did not warrant, and that was not for the true honour and interest of the State. And so they will yet obtain whatever they shall ask hereafter, as long as they confine themselves to things that ought to be done, and which, therefore, must be done after due notice and discussion. They have gone forward in the faith that there is yet flesh left in the hearts of men and brains in their heads, and that the average of general intelligence and virtue—though certainly none too high—is far above the level to which the leaders of all political parties would fain reduce them. Here is a plain exposition of the truth of the Scripture that saith—"One shall chase a thousand and two put ten thousand to flight."

We see that *The Boston Courier* states that the loss of his office will be made up to Judge Loring by some especial mark of Presidential favour. We hardly think that this expectation will be fulfilled, as the Slaveholders and their instrument, the National Executive, have never been forward to recompense past services, and there are too many applicants for every office who approved their deserts in the promotion of Mr. Buchanan's election (the only services worth paying for), to make it likely that anything worth while can be spared to Mr. Loring. Still, it may be thought advisable to make an exception in his favour, and we heartily hope that it may be. It would be one of those insults to the moral sense and the self-respect of the people of Massachusetts, and of the rest of the Northern States that agree with her as to this matter, which could not fail to be of a beneficial tendency. Anything that brings home to men's minds the natural antagonism of the Federal Government to the Northern States, and excites afresh the contempt and detestation which are the only feelings honest and intelligent minds should entertain towards it, is good, only good, and that continually. As to the poor object of the Slaveholders bounty, we should not grudge him the crust they might toss to him. We do not wish him or his to suffer personal inconvenience from this disgrace that has befallen him. Let him eat the dirty bread of the custom-house, if he can get it, in what peace he may, as long as he cannot efface the mark of the branding-iron which his native State has three times burnt into his forehead.

We do not think it necessary here to dwell upon one proceeding, which, in the minds of many, we are aware, will largely temper, and perhaps obliterate, whatever praise they might be willing otherwise to accord to the legislature of 1858 for wisdom or ability; we allude, of course, to the removal of Judge Loring. Of this we shall simply repeat what the record proves, that its introduction was not an administration measure, that not only the speeches but the votes of the opposition were necessary to bring it up for consideration, and that its determination was not made a party test. While we regret the event as a public misfortune, we are willing to derive what consolation we can from the very substantial amelioration of the crudities of the personal liberty act, which has been its concomitant;—from the character of the reasons assigned by the Governor for complying with the address;—and from the reflection that no efforts of ours, that could possibly be availing, were wanting to prevent a consummation upon which it is clear that a majority of the people of Massachusetts, with a pertinacity of zeal which we believe to be not only mistaken but cruel, had, nevertheless, determined.

REFUGE OF OPPRESSION.

THE FIRST GREAT BLOW.

'We shall reorganize the court, and thus reform its politieal sentiments and practices.' These are the sharp ringing words, used by that arch agitator, William H. Seward, in his recent speech in the United States Senate, in relation to the Supreme Court of the United States. 'We shall reorganize the court,' not beeause it fails to execute the law, according to its convietions of right, but because it does not conform its solemn judgments to the behests of a political party. There is no mistaking this language. It is bold and direct. It proclaims one great eontrolling purpose. It announees a determination to place upon the bench of the Supreme Court of the United States, men who will shape their judgments to the changing tides and shifting gales of popular madness. Hereafter there is to be no law higher than the decree of a party whose sole notion of jurisprudence is based upon thirst for office and publie plunder.

The mad and malignant annual denunciations of the Constitution of the United States by the Massachusetts Anti Slavery Society have heretofore had no terrors for us. We have passed them by like the idle wind whieh we regarded not. We have looked upon Garrison, Parker, Phillips, and their followers, as erazy, impraeticable fanatics, who, upon inquisition of lunacy, would probably, by public authority, be eonsigned to the wards of some of the excellent asylums for the insane whieh do such honor to the eharity and humanity of our Commonwealth. We have thought their impious blasphemies, their awful impreeations against God and the word of his revealed religion; their frightful denunciation of the letter and spirit of our matehless Federal Constitution; their proclaimed eontempt for the Federal Union; their persistent denial of all authority in the judicial tribunals of the land to bind the conscience of the citizen, as the deplorable, pitiable jibbering of delirious zealots.

But, now, when to this ringing declaration in the Senate chamber of Governor Seward, we add the great fact that Governor Banks has, with indecent haste, struck the first official blow at the independence of the judiciary in this Commonwealth; when, we say, we add the great fact that Governor Banks, an aspirant for national honors, has done this at the dictation of the Anti-Slavery Society, and in opposition to the expressed sentiments of some of the more conservating men in his own party,—we are constrained to fear that, through the aid of the Republican party, there will be a terrible meaning in the declarations of this Anti-Slavery Society.

Governor Seward says, 'we will reorganize' the Supreme Court, because the eminent persons, now in that bench, are not mere cringing, suppliant tools of the Republican party. Governor Banks, catching up the thought, puts it into practical execution in Massachusetts, by striking down a pure and upright judge, because, according to the Springfield *Republican*, the fanatical, ultra men in the party demanded it to gratify their emotions of unappeasable revenge.

It is idle, in this matter, to cry peace, for there is no peace. The war is actually begun. The declaration of hostilities has been formally, deliberately, solemnly announced in the Senate of the United States, and from the executive chair of the Commonwealth. We must make ready for the conflict. Shall all our rights, rights of person and of property, be put in the hands of a judiciary, avowedly bound by no law, no precedent, no conscience, but the prevailing emotion of the day? Are you ready for the question? Are you for or against this agrarian movement of Seward and Banks, led on by Garrison, Parker, and Phillips?—*Boston Post.*

From the Boston Post.

PUBLIC OPINION ON THE REMOVAL OF JUDGE LORING.

The journals, from all parts of the country, come freighted with the severest condemnation of the high-handed act of the removal of Judge Loring. It is uttered by all parties; and the removal is justly viewed as one of those demagogue acts which urgently call for rebuke. We cite a specimen of the manner in which this infamous measure is denounced by presses of all political complexions; and these specimens are increasing in number as fast as our exchanges from distant parts can bring them.

The New York *Times*, Republican, says—

'This act of Governor Banks is the grossest attack upon the independence of the judiciary ever witnessed in the United States. It will long maintain, as we trust, its bad eminence.' * * 'The act 'strikes a blow at the independence of courts, and tends to make the judiciary subservient to political excitements.'

The Trenton *True American* says—

'We are pleased to find, however, that the infamous act is condemned by all, exeepting those who for party purposes and political gain would sacrifice the dearest interests of the country, and destroy her best institutions.'

The Troy *Whig* says—

'Governor Banks has, at the request of the Legislature of Massachusetts, removed Judge Loring from the office of Judge of Probate for the county of Suffolk. * * * This movement, venomous and vindictive from the start, triumphs at a time when the whole North is imploring the South, and not unsuccessfully, to be moderate, just, and true to the Union; when Bell, and Crittenden, and Wise, and hosts of good and true men throughout all the South, are rebuking *Southern* ultraisms, and pleading for good neighborhood and peace with the North. * * * We infer, from this last act, that Governor Banks has concluded to depend on Massachusetts for whatever he may hope for in future. He has yielded all claims and prospects, except as a local politician—all pretensions to statesmanship—cheaply, if not gracefully. Let him 'slide.'

The New York *Courier and Enquirer* says—

'Yet the removal of Judge Loring is much to deplored both for its effect upon Massachusetts, and upon the country generally. For the movement for the removal has from the beginning been animated by a vindictive, venomous spirit. Those who really desired that he should be displaced were very few, until the leaders of the extreme and fanatical faction whom he had offended in the Burns matter, lashed those who were reasonably with them upon other subjects into a fury upon this. And that the vengeful character of the proceeding might be unmistakable, it was pushed on to the extreme issue after it had become entirely unnecessary as a means of relieving Judge Loring of his Probate duties.'

The Detroit *Free Press* says—

'The intensest fanaticism on this continent resides in the State of Massachusetts. A few years since, it refused to tolerate Daniel Webster in Faneuil Hall. Its idols are Garrison and Phillips and Theodore Parker. Just now, it has prevailed in the House of Representatives, by a vote of 127 against 101, in carrying an 'address' to the Governor, asking that functionary to remove from office Judge Loring. Mr. Loring is a Judge of Probate of Suffolk county. His offence is, that, three or four years since, as a Commissioner of the United States, he executed the Fugitive Slave Law in the city of Boston. It was his duty to execute it. His oath required that he should execute it. But the fanaties think he ought not to have executed it—that he ought to have disobeyed his oath, or resigned his office, and they have never forgiven him that he did not do one or the other; and they have never ceased to persecute him.'

The *Journal of Commerce* says—

'Governor Banks gave his reasons for the removal of Judge Loring, in a message of considerable length. He recognizes the force of the 'Personal Liberty Law,' which declares the holding of a State and United States office by the same person incompatible with the public interests. Having thus got rid of Judge Loring, he devotes half his message to showing that the provisions of the law, so far as they affect other officers, are wrong, and suggests their repeal. If this is not playing the demagogue, we do not understand the meaning of the term.'

The Cincinnati *Gazette* (Republican) says of Gov. Banks—

'The refusal of his predecessor, on two occasions, to take this step, though requested by a large majority of the Legislature, has met with general approval throughout the country. Even the leading ultra Republicans of Massachusetts, many of them, deprecated this action at this time. *But Banks was too thoroughly committed on the subject, evidently, in his recent canvass against Gardner, to allow hesitation.* From this date, he will have a powerful party of moderate men in opposition to him at home, to say nothing of the influence of this act on his reputation abroad. The character and standing of Judge Loring, as a man, are such that his removal on the mere ground of sitting as a Commissioner, under the Fugitive Slave Law, will create a great sensation in Massachusetts, and excite no little indignation against the unlucky Governor.'

The New York *News*, Democrat, in a scathing condemnation of Banks, says—

'The latest outrage perpetrated under the guise of law that we have to record is the removal of Hon. E. G. Loring, Probate Judge and United States Commissioner at Boston.'

The Baltimore *American* says—

'It is more than persecution for opinion's sake. It invades the sanctuary of conscience and duty, and says to all in judicial stations, 'Not to the dictates of duty and conscience, nor of the law must you listen, but to the voice of popular fanaticism and its demands, under the penalty of the loss of

your position.' It is, in fact, a radical and fatal blow aimed at the independence and integrity of the judiciary.'

The New Haven *Daily Register*, Democrat, says—

'Poor old Massachusetts! prostrated at the foot of this modern Baal, she has dimmed the lustre of her revolutionary renown, and lost the respect of her sister States. The Hartford *Press*—abolition—applauds the act, and says, 'Massachusetts gave Mr. Loring his choice—to be *a slave-catching Commissioner*, or a Judge of Probate.' Yet such papers, when accused of being abolitionists, deny the charge, and protest they 'do not desire to meddle with slavery in the States'! But in such an act as the removal of Judge Loring, the cloven foot sticks out too palpably for contradiction, and shows a brotherhood in fanaticism which makes it a crime to refuse to nullify the laws of the Union.'

The miserable subterfuge about the incompatibility of two offices, put forth in Banks's message—so insulting to popular intelligence—gets its deserts at the hands of all parties—Republicans, Democrats, and Americans. Banks *knows*, the world knows, that Judge Loring was addressed out of office because he executed the Fugitive Slave Law. A Republican press, the New York *Times*, thus pillories Banks's slimsy address—

'Governor Banks, in his message, takes pains to say, more ingeniously than ingenuously, that Judge Loring's Anthony Burns decision has nothing to do with the removal. *This assertion of his Excellency was unnecessary and useless, only betraying the existence of the fact which it denies.*'

The Newark *Daily Advertiser* (Republican) says—

'The Massachusetts Legislature has at length found a Governor subservient enough to remove Judge Loring. Mr. Banks has done an act from which Governor Gardner shrunk back ashamed. Whatever the reason assigned, or rather the pretences may be, the Judge's execution of the Fugitive Slave Law was unquestionably the real ground of the removal. But for this, he might have held the two offices of the Commissioner of the United States and Judge of Probate till doomsday, and the Legislature of Massachusetts would never have troubled itself about his affairs. * * * We rather think this dismissal will be no punishment to that excellent magistrate, but if it is, no disgrace follows it, unless such as must belong to those who have conspired to inflict an unjust act of party malevolence.'

From the Boston Post.

THE BLACK RECORD OF INFAMY.

The feeling of intense and general indignation and disgust, entertained by all classes and parties in the State and country, growing out of the wanton and unjustifiable removal of Judge Loring, is having its effect even upon the conspirators and actors in this infamous measure. Like all guilty culprits whose misdeeds have been brought to light, these men are already quivering and shaking in view of the gathering wrath of an abused and insulted people, and which promises such an outpouring upon them as has never yet been seen or felt in old Massachusetts.

The day of reckoning and of just and well merited retribution is fast approaching, and Governor Banks, with the entire band of affiliated black Republican vandals, will yet be tried and condemned by the potent voice of outraged justice. There is no escape for them—and as sure as time itself endures, so certain is it that just and adequate punishment will follow the commission of this nefarious deed.

No where else in the history of our Commonwealth, not even in the days of the whipping-post and public stocks, can there be found a fitting parallel to this crowning deed of governmental vengeance and malignity. In comparison with it, and especially when we consider the *time* and *circumstances*, the whipping, cropping, and banishment of the Quakers and Baptists, were but innocent pastime and recreation.

These acts of our early ancestors, although they could not be justified or excused, yet were not without a *shadow* of palliation. Unlike this 'damning deed' of the removal and attempted degradation of Judge Loring, there was a *show* of reason for the course which was then pursued. Men were brought to the 'whipping-post,' or had their ears 'cropped' because of the commission of some 'act,' or the expression of certain 'opinions' which were deemed heretical and unsafe to the 'body politic.' Not so in the matter of removal of Judge Loring, and no such justification or palliation can be urged for those who have contributed to the consummation of this black Republican persecution of an honest, upright and humane officer. This bold, bald act of Governor Banks, and his satellites and minions in the Legislature and Council, has not a single redeeming feature about it, but stands forth in all its deformity, naked and undisguised. As evidence of this, we have the confession of Governor Banks himself, in his message to the Legislature, and a most miserable, as well as infamous confession it is, too. Let us look at this

'BLACK RECORD OF INFAMY,'

and here it is:—

'No OFFICIAL OPINION OF HIS, entering into my consideration of the question, AND NO OFFICIAL ACT *constituting an element in the judgment I have formed*, upon address of both houses of the Legislature, constitutionally presented, and with consent of the Council, *I have removed* Edward Greeley Loring from the office of Judge of Probate for the county of Suffolk.'

We thus have the unprecedented and most detestable act proclaimed to the world, as without cause or warrant, so far as any 'official act' or 'opinion' of Judge Loring is concerned, and for whose removal no reason or justification can be adduced, except the miserable plea of 'incompatibility'! 'O! shame, where is thy blush?' If Governor Banks and the fiery crew who dance around the black Republican cauldron were not as callous and insensible to shame as the stones in the street, they '*would* hide their *diminished* heads in very shame' at the meanness and malignity of this dastardly and infamous deed. Meantime, let the sentiment of the people, of all parties and sects, roll on its tide of condemnation, and sooner or later, these men will obtain the reward which is sure to follow the perpetration of such unmitigated political villany.

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AN APPEAL TO CONSERVATISM.

The Providence *Post* (Border-Ruffian Democrat) says of Judge Loring's removal:

May not this outrage yet be the means of arousing the people of Massachusetts to a sense of their political degradation? Will it not awaken the conservative men of that State to the necessity of resisting the march of fanaticism? Will it not bring into the political field *such men as Everett*, (!) *Winthrop*, (!) *and Choate*, (!) *and the Lawrences*, (!) and stir the blood of scores and hundreds who have of late taken little part in political affairs? We think it will; and our word for it, the time is not far distant when this act of meanness and treachery will be rebuked, as no act of treachery in that State was ever rebuked before. Witchcraft, we remember, had its day there; but the fanaticism which hung or imprisoned innocent men and women by scores, at last, obtaining rope enough, hung itself. Its own devilishness became apparent, and the reaction was as powerful as the march of madness had been terrible.

So it will be again. The madness which rules the old Commonwealth, to-day, has worked its own overthrow; at least, has consummated the work which shall prove its ruin. It has taken a step which fastens everlasting disgrace upon the party in power. The people of the State have been warned, again and again, that the sectional spirit which they were nursing would yet bring them to this humiliating result. They can now realize the truth of these warnings, and the necessity of immediate retreat. We are sadly deceived in our estimate of their patriotism, if they do not promptly and energetically *act* upon these convictions of their danger, and number the days of political abolitionism, which is but another name for treason against all government.

We cannot adopt a more fitting conclusion of these comments upon an act of baseness which hardly finds a parallel in the history of our government, than by copying the remarks of the Hon. Caleb Cushnig, of Newburyport, in the Massachusetts Legislature, after the message of Governor Banks, announcing a compliance with the address of the Legislature, had been received and read.

The Lawrence (Mass.) *Sentinel* (Border-Ruffian Democrat) says:

'The deed is done'—and that, too, neither wisely nor well; Mr. Andrews to the contrary notwithstanding. Bowing with a cringing servility to the malicious behest of a few 'malignant philanthropists,' a subservient Legislature and a craven Chief Magistrate, in total disregard of the sentiments and wishes of a large majority of the people who compose the body politic of this Commonwealth, have proscribed an honest Judge in whom 'there was no guile.' Whatever pretence may be advanced to justify this action, no sophistry, however subtile, can conceal the real motive from the sight of any observing citizen. The flimsy claim of *incompatibility* is simply absurd, and will never serve to protect the perpetrators of this injustice from the honest and deserved indignation of an outraged constituency.

Our cunning Governor foresaw the perils which would probably environ him, and sought to avert it by resort to a subterfuge of questionable expediency; but the hungry vultures were not thus readily to be cajoled. Their object was *revenge*, the offspring of unappeasable hatred, and they could only be satisfied when the victim was immolated on the shrine of their enmity. The crafty scheme of the 'iron man' proved abortive, and he was finally reluctantly forced to 'face the music,' and bide the issue. He would willingly have pursued the contrary course, but moral courage was lacking.

The Washington *Union* says—

'This shameful attack upon the Judiciary, and the prostration of an able and unoffending Judge, is the price paid by Governor Banks for a temporary continuance of the ascendancy of Black Republicanism in his State. But it is the death-knell of that party in Massachusetts, and destroys his Presidential aspirations. No judge-slayer who decapitates a magistrate for faithfully performing his duty, can command the votes of the American people for the Presidency. Even Massachusetts will rise in judgment against him. Governor Banks may yet see his victim triumph by the votes of that State, and be compelled to yield to him the Chair of State.' (!!)

The Baltimore *Exchange* says—

'At the instance of William Lloyd Garrison, and one Bradley, a negro lawyer of dishonest character, acting as counsel for the petitioners, the Assembly consented to demand of the Governor Judge Loring's dismissal from his office of Judge of Probate; the Council of State, bitten likewise by the abolition tarantula, advised the Governor, by a vote of seven to two, to the same effect, and Governor Banks promptly assenting, the sacrifice was completed.'

SELECTIONS.

From the Boston Bee.

The Boston Press on the Removal of Edward G. Loring. The Case Reviewed.

The Boston newspapers, of Saturday morning, fully justified our statement, made on Friday, in relation to their feelings about the removal of Mr. Loring from his Judgeship. The *Herald* alone was silent; the *Post* raved and fumed in a style that would have done credit to Keitt, of South Carolina; the *Courier* mingled its groanings and rage in about equal quantities; the *Journal* shed tears copiously and twaddled lugubriously, and the *Advertiser* joined the cavalcade of mourners, and administered consolation to the decapitated Judge on account of the 'persecution'(!) which he suffered. The *Traveller* likes the way the thing was done by the Governor, and does not seem very sorry for Mr. Loring. We are left alone among our contemporaries in fully endorsing and justifying the act of the Legislature and the Executive. Let us examine a little some of the many inconclusive and savage things which our offended and tearful brethren have thought fit to say. We should not now care to recur to this subject, were it not for the purpose of making a record of the opinions of the press at this time, to which we may refer when finally the popular verdict of the whole country is rendered upon this subject.

We have not a shadow of doubt what that ultimate judgment will be. It will be one of hearty concurrence, of most emphatic approval of the removal of Mr. Loring, and the longer the matter is considered, the more decided will be that judgment. This act of the State of Massachusetts, (for it is the act of the State,) will stand upon the pages of her history to the honor of the Commonwealth, and to the lasting praise of the Chief Magistrate who vindicated her dignity, proved her power, and placed her where she has always proudly and firmly stood, on the side of law, justice, and humanity. This is our opinion to-day, and we place it on record against that of our contemporaries, and abide the issue.

Governor Banks has not removed Mr. Loring at the bidding of any party or any fanatical herd, but in obedience to the law which he is bound to execute, and in obedience to the will of the people constitutionally expressed through the Legislature. Instead of this act being calculated to injure or impair the independence of the judiciary, it vindicates and confirms that independence. It is one of the best things that ever happened for the independence and the honor of the judiciary. Mr. Loring was a notorious and confessed law-breaker; he defied and trampled on the statute of the Commonwealth, and moreover defied the powers which executes the laws to punish him. He has now met the fate which every law-breaker ought to meet, and the judiciary of Massachusetts is free from the stigma of having a judge who openly violates her laws; he has found that before the majesty and power of the law, he is no greater and no better than the common criminal who braves it in the commission of any offence. We have no longer the disgraceful example of a man, set in the place of a judge to interpret and aid in the execution of the laws, living in daily violation and contempt of the same. In this removal, therefore, the disgrace is removed from the bench, and the independence of the judiciary is vindicated and established No judge will be likely hereafter to arrogate to himself more power than belongs to him, or disgrace the Courts and the State by boasting of his own impudent and flagrant violation of existing laws. All this talk about the attack upon the independence of the judiciary is the merest twaddle and moonshine, and is only resorted to by the partizans of Mr. Loring in the hope of arousing prejudice, and scaring weak-minded people.

The *Post* talks about 'the supremacy of the laws

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of Congress in this Commonwealth.' We would remind the *Post* that no such thing exists; there is no *supremacy* of Congress in any State; it has no power to override a single statute of this Commonwealth. The Federal Government has certain rights and powers granted to it by the confederacy, for *its own* legitimate purposes, but beyond this has no power, and in no sense has it the slightest supremacy. The moment the Federal Government attempts, within this State, to interfere with a single right accorded by this State to her citizens, or with the execution of any law of Massachusetts, that moment the Federal Government will find that it has no supremacy. We owe as citizens an equal allegiance to both the Federal and the State authority; if they ever conflict, then the authority prevails which has the right, the law and the Constitution on its side, and not that which is federal simply because it is federal. This blarney of the *Post* about the supremacy of the power at Washington is quite common with the hunker press—except when they talk about nullifying for the benefit of slavery—but it has no foundation in truth, in law, or in statesmanship. The *Post* thinks the patriotism and intelligence of Massachusetts will condemn the removal of Judge Loring—we are confident that it will not only not condemn, but heartily approve this act of justice so long delayed, but at last so effectually and decisively done. It may be that the *Post* was thinking only of that sort of patriotism with which alone it is acquainted, namely, that whose seven principles are the five loaves and the two fishes. It speaks of 'the scathing rebuke of General Cushing':—well, we are inclined to think he never received a more scathing rebuke, nor one more richly merited, than that administered to him by Mr. Andrew. Perhaps it was that to which the *Post* refers! If so, we have no doubt that it will be responded to by the candid of all parties.

Of the Jeremiads of the *Journal*, little needs be said. Here are a few specimens of its reflections:

'We confess that we are greatly disappointed at this action of the Governor.'

No doubt of it—the *Journal*, if we may believe its talk of last summer, was greatly disappointed at the election of Gov. Banks; it was disappointed in the election of Hon. Daniel W. Gooch; and in the whole year past, we remember but one political event with which it was satisfied, and in regard to which its opinions and predictions proved correct, and that was the choice of the Sergeant-at-Arms. It is quite in the ordinary course for the *Journal* to be out of its reckoning, and consequently disappointed; so as the Dutch Justice said, 'Dat ish no matter!'

'We had hoped, and not without reason, that an Executive whose views are eminently conservative would have resisted the tide of fanaticism whose angry billows have been surging against the fair fabric of our judiciary system. But we have hoped in vain, and the invading flood has undermined one of its pillars.'

That 'eminently conservative' dash of soft soap is well laid on, but we can tell the *Journal* that Governor Banks is a kind of man on whom such things have no effect. The *Journal*, in its lamentation over the fallen pillar of the judiciary, is more plaintive than the *Post*, and altogether outdoes it in the highfalutin style. Don't you think, neighbor *Journal*, that some one ought to speak to his Excellency, and urge him to put forthwith a new 'pillar' in the place of the rotten one just knocked out of that 'fair fabric?' For who knows how soon the whole edifice will come tumbling about our ears? One would suppose, to hear these wailings, that Mr. Loring had been the Atlas that upheld our whole judiciary, and that his broad shoulders sustained alone the superincumbent incubus (which he boasts that he *does* carry) of the Fugitive Slave Bill, with all its host of runaway slaves and pursuing masters. We feel no alarm, however, and have some slight hope left that our judiciary will survive, and our laws be respected and executed.

The remainder of the *Journal's* article is a ridiculous attempt to prove that if there is any *one* section of the Personal Liberty Act which is unconstitutional, then the whole is also void!

Next comes our respectable cotemporary, the *Advertiser*, which has at least been consistent, as it has always opposed the execution of justice upon the offending Judge.

It is modest in the *Advertiser* to say, that an act three times legislatively done, pronounced constitutional and correct by the best legal minds in the State, demanded and approved by the people who are the ultimate sovereigns and judges, is based on prejudice and unjust to the subject of it. We take issue with it most distinctly in regard to the alleged injustice toward, or persecution of, Mr. Loring. He suffers no injustice, and has sustained no persecution. Suppose Mr. Sheriff Clark should take it into his head to disobey the law of the State, and attempt to justify himself on the ground that *he* judged the provision of the law unconstitutional? Would that save him from the penalty, or would it be said that he was unjustly treated because the law was executed? The case is the same with every official, and with every citizen; he may disobey the law which he considers unconstitutional, but he cannot thereby escape, nor ought he to escape, the penalty. It is, therefore, nonsense to talk of injustice or persecution in Mr. Loring's case; he took the responsibility—he has suffered the consequences, and it is simply just and strictly legal.

The fulsome compliment which the *Advertiser* pays to this punished violator of law gives us an opportunity now to say, what we would otherwise have refrained from saying, and we beg to call attention to it. We know nothing wrong in the conduct of Mr. Loring *as Judge of Probate*, but we do say that his conduct in the Burns rendition case was most unjust, unjudgelike and unbecoming—and this assertion is sustained by the facts, the *admitted* facts of that case. The records of that case prove that Mr. Loring was excited, confused, and hurried in his action; that he lost his judicial dignity, and suffered himself to be brow-beaten and silenced in his own Court by an impudent U. S. official; that he was reluctant to grant time and opportunity to the fugitive to prepare his defence by his counsel; that he prejudged the case in his own mind; that he improperly, and in direct violation even of the Fugitive Slave Act itself, permitted the admissions of the fugitive to have weight against him; that he gave greater credence to a document from a Virginia Court than to the oral and consistent testimony of several unimpeachable witnesses who were citizens of Massachusetts; in short, that in the whole conduct of the Burns case, Mr. Loring manifested an extreme terror of the federal authority and the slaveholder's officials, an unseemly disregard of the duties he owed to the State of Massachusetts, a cold indifference to the momentous question of the liberty or slavery of his fellow-man, and an unworthy subserviency to the demands of the oppressor.

These things unfit a man for any judicial station, and hence whatever can be said of his conduct merely as Judge of Probate, we hold that his behavior in the other judicial capacity was reprehensible to the last degree, and for this reason he is not worthy to be clothed with the ermine. We have no doubt that Mr. Loring himself in calmly reviewing his course regrets it, and he may have repented, as Ex-Governor Morton suggests, but he manifests no signs of repentance, and can therefore claim no forgiveness. We wish to call the attention of the *Advertiser* and of the public to one point further, and then let them decide how far Mr. Loring is entitled to sympathy. In giving his decision in the Burns case, he said, that it was *not* for him to decide the questions of the *constitutionality* or the *harshness* of the Fugitive Slave Act, but it was his business to *apply the law*. Mr. Loring said:—

'I think the statute constitutional, and it remains for me now *to apply it to the facts in the case.*'

We commend the chalice mixed by Mr. Loring to his own lips. Three successive Legislatures have said, and now Gov. Banks has said, that that part of the Personal Liberty Bill under which Mr. Loring is removed is in their judgment constitutional, and it only remained for them '*to apply it to the facts in the case.*' They have done it, and the people say 'Amen!'—what says Mr. Loring now? To the ravings of the Boston *Courier*, we need pay no attention whatever, inasmuch as nobody else does. We have thus quoted and commented upon some of the outpourings of our neighbors of the Boston press on this subject. It is not strange that they take such distorted views of the case; they are but in part emancipated from the influence of that Boston notion, which in politics, as in all things else, leads them to believe, as the Autocrat of the Breakfast-Table says they do, that—

'Boston State House is the hub of all creation. You could not pry that out of a Boston man, if you had the tire of all creation straightened out for a crowbar!'

We believe in the people, equally those who live out of Boston as well as those who live in it, and the voice of Massachusettss, when it is heard in the rendition of its verdict on the removal of Mr. Loring, will utter but one emphatic word, and that will be to re-echo the language of Mr. Andrew: 'The deed is *done*—it was *well done*—and it was *done quickly.*'

From the same.

THE REMOVAL OF LORING.

We want no better evidence of the propriety of the removal of Judge Loring than the shrieking of the Southern disunion and the Northern dough-faced journals. We have never had any doubt of the constitutionality of the act of removal, whatever we may have had of its expediency; we have now, however, no doubt of either. Judge Loring has set the laws and the public opinion of his State at defiance, and had the case been reversed, in any Southern State where he might have been a judge, had he set the laws and opinions of the State at defiance, there is not one of them that would not have removed him instanter, and he would have been fortunate had he escaped lynch law into the bargain. If Judge Loring has a fancy for catching and returning fugitive slaves, neither he nor his friends ought to complain for his removal, for he will now have full time and opportunity for so doing, (as far as he can find it), but neither the people of Massachusetts nor of Suffolk county desire to have the time and attention of their Judges of Probate taken up in such an unchristian and disgraceful business, instead of attending to the quiet and peaceable administration of their duties.

As we understand the case, Judge Loring had a full opportunity of retaining the office of Judge of Probate, had he chosen to give up the office of U. S. Commissioner; and if he desired to be a martyr in a bad cause and in behalf of the Slave Power, he has his desires granted, and therefore he and his friends have no cause of complaint. Doubtless he will have his reward. Whether his removal was caused by the part he took in the Burns affair or not, is of but little consequence. He has had ample time to place himself in a position where he could not be called upon to disgrace the State in a similar case, and he has steadily refused. Gov. Banks has done just what a large majority of the people of the State expected him to do, when they gave him their votes, and if the people of other States and the traitors and disunionists of the South do not like it, we can only say we did not expect they would, and we did not vote for Gov. Banks to please them. If, however, all the Southern States intend to resent the act by statutes of non-intercourse with Massachusetts, according to the recommendation of the Richmond papers, it becomes to be sure a more serious matter, and we will try to look grave; but, for the life of us, we fear we shall not be able to keep our risibilities in subjection when the plan is carried out, any better than when it was first suggested.

A MERCHANT.

CASE OF JUDGE LORING.

Instead of grumbling and growling over the recent removal of Judge Loring, by the Governor and General Court of Massachusetts, from his office of Judge of Probate for Suffolk County. as an attack upon the independence of the judiciary, *The N. Y. Times*, *The Washington Union*, and other dissatisfied prints, would do well to see in it—what it really is—a fresh indication of the unextinguishable disgust of the people of Massachusetts with the Fugitive Slave Law, and especially with the miserable spirit of doughface subserviency which led Judge Loring to consent to act as one of its executioners. In this point of view, his removal ought to appear, especially at this particular crisis, as an extremely seasonable warning; and there are, at this moment, several persons at Washington from Northern States, to whose cases it is particularly well suited, and upon whom we hope it will not be lost.

To attempt to convert Judge Loring into a political martyr, is totally to misunderstand or misrepresent the whole circumstances and history of his case. *He is a martyr to slave-catching — nothing more.* Instead of appealing to the public to bestow upon him the praise—which, having lost his office of Judge of Probate, he might regard as rather empty — of a magistrate who prefers to lose his State office rather than to disregard the law, it would be more to the purpose to urge his claims to the usual reward and consolation of doughfaces—a good fat Federal berth. In some such berth we have very little doubt that he will presently find balm and consolation for his wounded sensibilities, and ample indemnity for all his pecuniary sacrifices.

Unquestionably, it was the connection of Judge Loring with the matter of the rendition of Burns, under the Fugitive Slave Law, that led to the loss on his part, some time since, of the office of Law Professor at Cambridge, and now of the office of Judge of Probate. But it is absurd to attempt to represent one of these acts, any more than the other, as an attack upon the independence of the judiciary. The rendition of Burns was not a judicial act—at least, those who hold the Fugitive Slave Law to be constitutional have no right to attempt to invest it with that character, since it is only on the ground that the action of a Commissioner under that law is not judicial, that the constitutionality of the act itself can be maintained. If the rendition of an alleged fugitive from labor were a judicial act, then it could only be performed by a Judge appointed with the consent of the Senate, commissioned by the President, and having a fixed salary, instead of being paid by the job. But—so the Judges of the Supreme Court tell us—the rendition of a fugitive is not a judicial, it is a merely ministerial act. The Commissioner does not decide the alleged fugitive to be a slave, or even a fugitive; he only identifies him, and sends him off to Alabama or Virginia, as the case may be, leaving all these judicial questions open, to be settled by the tribunals there. It was not, then, by acting in any judicial function that Judge Loring made himself obnoxious to the people of Massachusetts, but by acting in a non-judicial and merely ministerial function. It was not to his conduct as a Judge or as a Law Professor that they objected; it was simply that, not content with being a Judge and being a Law Professor, he must persist in taking

upon himself the additional, and, as it was thought in Massachusetts, the incompatible business of a slave-catcher. For it is to be noted, that his decision in the case of Burns—though many thought that decision wholly unsustained by the facts in evidence—did not constitute the main ground of the complaint against him. Had that decision been the other way—had he discharged Burns, instead of delivering him up—still the mere fact that, being a Judge of a Massachusetts Court, he had consented to disgrace that office by joining with it the function of a slave-catching Commissioner, would have been held quite sufficient to warrant his removal.

The resolute and persevering spirit with which that removal has been followed up, can only be taken as an unmistakable indication of the antipathy of the people of Massachusetts to slave-catching, and an emphatic expression of their opinion that it is not a fit business for Law Professors and State Judges to be employed in. Mr. Loring thinks it is. He was warned three years ago, by an act of the Legislature, that if he persisted, in defiance of the feelings and wishes of the people of the State, in holding his office of slave-catching Commissioner, he must expect to be removed from his office of Judge of Probate. He had the alternative to resign one office or the other, and as he would not resign his Commissionership, what occasion has he or his friends to complain that he has been removed from his office of Judge?

The question of the removal of Judge Loring—which removal, but for the scandalous trickery and treachery of the late Gov. Gardner, would have been effected long ago—was only a question whether or not the people of Massachusetts had been convinced of the constitutionality and reasonableness of the Fugitive Slave Law, and were ready to place that act on the same level with other Federal laws, To have allowed Loring to escape removal, would have been a triumph of the Fugitive law, and its partizans and advocates. It would have been a tacit withdrawal of all the objections urged against that statute. It would have been to invite new attempts on the part of Loring and others to carry that act into execution. Nor, in this view of the case, do we apprehend that the recommendation by Gov. Banks, of certain modifications in the act under which Judge Loring has just been removed, will be apt to find much favor with the Legislature, and still less with the people of Massachusetts.—*New York Tribune.*

The New York (satanic) *Express* refers to it as 'a deed of political shame,' and says, 'Gov. Banks, by the dodge he has made in excusing the act, shows its wickedness.' The New York *Times* calls it 'the grossest attack upon the independence of the judiciary ever witnessed in the United States'!!

THE REMOVAL OF JUDGE LORING—THE DESIGNS OF THE FREE SOILERS UPON THE JUDICIARY.

Edward G. Loring, Judge of Probate for Suffolk county, Massachusetts, has been removed from his office by Governor Banks, of Massachusetts, in conformity with the request of the two houses of the Legislature of that State. His offence consisted in his faithful and conscientious discharge of his duties as United States Commissioner in the rendition to slavery of the fugitive Burns, whose case several years ago attracted so much attention. This disgraceful act of the Black Republican Legislature indicates a determined purpose on the part of the antislavery fanatics to subjugate the Judiciary to their unholy designs. The scheme which they have already mooted for a radical change in the constitution of the Supreme Court, shows that the bitterness of their hostility to the Southern States has increased rather than diminished. They avow openly the design to sectionalize the highest judicial tribunal in the country, and thus to render it subservient to their purpose of reducing the South to a state of complete subjugation and dependence. Heretofore, amid the most embittered strife of parties, no unhallowed hand has been raised against the Judiciary. The sentiment of respect for authoritative expositions of the law, and the sanctity which has attached to the Judicial office, have made our courts the depositaries and guardians of the conservatism of the country. But in the madness which rules the hour, this is to be so no longer. Maddened and exasperated by the restrictions and fetters of law, maintained and expounded by a conscientious and upright Judiciary, anti-slavery fanaticism has determined its overthrow. The judgments of the Judiciary are no longer to be based solely upon law, but are to be guided and suggested by popular clamor. An independent Judiciary, the greatest of all blessings in a free country, is to be substituted by a servile and dependent one. In effect, popular passions and prejudices are to dictate the decisions of the courts, and Judges are to hold office only so long as they reflect in their decisions the will and opinions of the populace.

Such is the lamentable tendency of sectional spirit at the North. It is not enough that the dangerous doctrines of sectional domination should be advocated in the halls of Congress, but the effort is now being made to introduce the same spirit into the hitherto sacred precincts of the Judicial office. When this is accomplished, the last barrier between the Constitution and its enemies will have been removed.

The act of Massachusetts in removing Judge Loring from his office is, as we have said, an indication of the spirit which animates the Black Republicans. They would gladly apply the same measure of petty vengeance to every Judge of the United States who has discharged his duty in regard to the Fugitive Slave Law, without reference to the prejudices and wishes of free soil communities. The removal of Judge Loring, as an exhibition of malice, is beneath contempt, and is only worthy of notice as an evidence of the fell spirit of evil which pervades the fanatics of Massachusetts. They are not worthy of such a man as Loring. His removal will be an eternal disgrace to them, while it will secure for him the sympathy, esteem, and the applause of every man who regards the preservation of the purity of the Judicial office as preferable to the favor of an assembly of narrow-minded antislavery bigots.

We learn by telegraph from Washington, that the President has nominated Hon. Edward G. Loring, lately removed by address from the office of Judge of Probate for Suffolk County in this State, to be Chief Justice of the United States Court of Claims, to fill the vacancy upon that bench caused by the decease of Judge Gilchrist. The brief period which has elapsed since the vacancy happened, is a proof that the appointment is unsolicited, and probably unexpected, on the part of Judge Loring: and it is accordingly a substantial compliment from the national Executive, which he can without impropriety accept, although by doing so he will forfeit all claim to the character of a "martyr" with which some of his injudicious friends have seemed to be anxious to invest him, since the federal office to which he is now appointed is more than four times as lucrative as the State office from which he has been removed. The salary of a judge of the Court of Claims is $4000, while that of the probate judge was but $900. It is worthy of remark, therefore, that so far as the efforts of the advocates of removal among the people and in the legislature may have been stimulated by a personal feeling of vindictiveness against Judge Loring, they have simply attained the result of placing him in a position of greater responsibility and emolument, and of national consequence. The personal friends of Judge Loring certainly cannot object to this result, however much they may deplore the means by which it has been brought about, and we cannot refrain from expressing our gratification that the measure of removal has thus proved powerless to annoy the judge in its material aspects. As the advocates of removal almost universally disclaimed any feeling of vindictiveness against Judge Loring personally, they also cannot complain that the proceeding to which their consciences and convictions of duty impelled them has had the result which has now ensued.

Having said thus much upon personal grounds, we are justified in adding as a matter of public concern that the appointment of Judge Loring to this new post will have an unfortunate tendency to aggravate the feeling of distrust between the State and federal governments. Governor Banks, in his statement of the reasons why he made the removal, was very careful to place it wholly upon internal grounds, viz. the Statute incompatibility between the offices of judge and commissioner, the latter of which Judge Loring, after notice, refused to resign. But the President seems to recognize an issue as existing between the State and the nation, and has determined to reward by a lucrative national appointment an officer upon whom the State had seen fit to visit its displeasure; and as we regretted the action of those who urged the removal, we regret likewise the action of the President in making an issue and cherishing it. If this principle of reciprocating misunderstandings shall be extensively adopted in the movements of the federal and State authorities, it is easy to see that the greatest inconvenience must infallibly result to the public service. It may be, however, that the lesson which will be drawn from the history of the case will be to impress upon both parties the folly of seeking to embarrass the operations of each other's officers in their appropriate spheres of duty. We hope that it may be so. So far as Judge Loring is personally concerned, we repeat that we are very glad that the President has thrown over him the ægis of national protection against what we conceive to have been the mistaken action of the State, and we freely confess that we had not expected to witness so much generosity in the official conduct of Mr. Buchanan.

The office of chief justice in the Court of Claims is an important one. It was created by law in 1855. Judge Loring is well qualified to discharge its duties with credit to himself and advantage to the public at large. The tenure, like that of all judicial officers under the Constitution of the United States, is during good behavior, and there can be no removal by address.